THE ACTS

OF THE

LEGISLATIVE COUNCIL OF INDIA,

RELATING TO THE

MADRAS PRESIDENCY,

FROM

1848 TO 1855.

WITH

AN ABSTRACT OF CONTENTS OF EACH SECTION, AND AN ELABORATE AND COPIOUS INDEX,

COMPILED BY

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F. I. C. SUBORDINATE UNCOVENANTED SERVICE

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PREFACE.

THIS edition of the Acts of the Legislative Council of India relates to the Madras Presidency, and embraces those promulgated from the year 1848 to 1855. It may be regarded as an addendum to Mr. CLARKE's work, as it commences with the year subsequent to that with which his concludes. The plan on which it has been compiled is such as to include even those Regulations and Acts of an earlier date that have been extended to this Presidency during the past eight years. Mr. CLARKE's Code and this volume, therefore, contain the whole Statute Law now in force.

As, until very recently, it was not the practice of the Legislature to give marginal notes of the contents of each section of the Acts, it was deemed advisable, with a view to facilitate reference, to prefix to them an analytical abstract. But, while the work was in Press, it was suggested that it would be preferable to have marginal abstracts instead; and accordingly the original plan was abandoned, and the purport of each section put in the margin of those Acts that had it not. This change commenced with the Acts of 1851.

Those Laws that were originally applicable to either Bengal or Bombay only, but which have since been extended to this Presidency, are given as foot-notes to the Acts extending them. Thus, for example, Act XXI. of 1839 having been brought into operation in Madras by Act VIII. of 1849, it is inserted as a foot-note to it. So also with Regulation III. of 1818 of the Bengal Code extended by Act XXXIV. of 1850. But in the "CONTENTS" they are given datorially. Such Acts do not appear in Mr. CLARKE's code, because they were not in force here at the time of its publication; and had they not been inserted in this compilation, no one possessing a copy of these two works only would have a complete set of the Regulations and Acts which now obtain.

Foot-notes have been inserted pointing out where subsequent enactments modify, explain, or extend previous ones, or are to be read with them.

The words italicised in the titles of the Acts contained in the "CONTENTS" are intended to give a clue to their subject at a glance, and the asterisks in the "INDEX" indicate that the Act is a foot-note and not inserted in the body of the work.

The compiler tenders his acknowledgments to Mr. R. H. LYONS for the kind assistance he has rendered him in correcting the Press.

W. P. W.

August 1856.

Note.—Act VII. of 1849 and Sec. XII. of Act XIX. of 1852 have been repealed by Act XIII. of 1856. The necessary alterations could not be made in this compilation, as it was nearly ready for publication when the last named Act was promulgated.

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GOVERNMENT OF BENGAL

ACTS OF THE

LEGISLATIVE COUNCIL.

ACT No. III. OF 1848.

Passed on the 26th of February 1848.

Defines the terms "Thug," "Thuggee" and "Murder by Thuggee," as hitherto used in the Acts.

An Act for removing doubts as to the meaning of the words "Thug" and "Thuggee," and the expression "Murder by Thuggee," when used in the Acts of the Council of India.

Whereas doubts have arisen as to the meaning of the words "Thug" and "Thuggee," and the expression "Murder by Thuggee," when used in the Acts of the Council of India:—

It is hereby declared and enacted, that the word "Thug," when used in any Act heretofore passed by the Council of India, shall be taken to have meant and to mean a person who is, or has at any time been habitually associated with any other or others for the purpose of committing, by means intended by such person or known by such person to be likely to cause the death of any person, the offence of Child-stealing or the offence of Robbery not amounting to Dacoity. And that the word "Thuggee," when used in such Acts shall be taken to have meant and to mean the offence of committing or attempting any such Child-stealing or Robbery by a Thug. And that the expression "Murder by Thuggee," when used in such Acts shall be taken to have meant and to mean Murder when employed as the means of committing such Child-stealing or such Robbery by a Thug.

ACT No. IV. OF 1848.

Passed on the 26th February 1848.

Provides (1) that no greater number than five shall be necessary to form a Coroner's Jury on inquests held at Madras &c., and that their finding shall be as valid and effectual as that of twelve; (2) that the Coroner may impose a fine, not exceeding 50 Rs., for the non-appearance of any person summoned to attend, to be levied,

through a Magistrate, under the provisions of Act II of 1839; (3) that no inquisition shall be quashed &c. on account of certain technical defects, but that, when called in question before him, any Judge of Supreme Court may order its amendment; and (4) that, subject to the approval of the Governor, the Coroner may appoint a Deputy, to act for him during illness &c., whose acts &c. shall be taken as his own, as well as revoke his appointment at any time.

An Act for regulating Coroner's Juries.

It is hereby enacted, that from and after the First day of May, 1848, on all Inquests to be held by the Coroners of Calcutta, Madras or Bombay, no greater number than five Jurors shall be necessary, and that every finding of a Jury consisting of five Jurors shall be to all intents and purposes as good, valid and effectual in Law, as if such finding had been the finding of twelve Jurors.

II. And it is hereby enacted, that when any person shall have been duly summoned to attend as a Juror by any of the said Coroners, and shall fail or neglect to attend at the time and place specified in such summons, it shall be lawful for any such Coroner to cause such person to be openly called in his Court three times to appear and serve as a Juror, and upon the non-appearance of such person and proof that such summons has been served upon him, or left at his usual place of abode, to impose such fine upon the person so making default, not exceeding Fifty Rupees, as to such Coroner shall seem fit, and such Coroner shall make out and sign a Certificate, containing the name and surname, the residence and trade, or calling of every person so making default, together with the amount of the fine which shall have been imposed, and the cause of such fine, and shall transmit such certificate to one of the Magistrates of the Presidency of which he is the Coroner, and shall cause a copy of such certificate to be served upon the person so fined, by having it left at his usual place of residence, or by sending the same through the Post Office, addressed as aforesaid, and thereupon such Magistrate shall cause such fine to be levied according to the provisions of Act No II. of 1839, in the same manner as if such fine had been imposed by himself.

III. And whereas it is expedient to make provisions for supporting Coroner's Inquisitions and for preventing the same from being quashed on account of technical defects:

It is therefore hereby enacted, that no Inquisition found upon or by any Inquest of any of the said Coroners, nor any judgment recorded upon or by virtue of any such Inquisition shall be quashed stayed or reversed for want of the averment therein, of any matter unneces-

sary to be proved, nor for the omission of the words "with force and arms," or of the words "against the peace," or of the words "against the form of the Statute," or for the omission or insertion of any other words or expressions of mere form or surplusage, nor for the insertion of the words "upon their oath," instead of the words "upon their oaths," nor for omitting to state the time at which the offence was committed when time is not of the essence of the offence, nor for stating the time imperfectly, nor because any person or persons mentioned in any such Inquisition is or are designated by a name of office or other descriptive appellation instead of his, her or their proper name or names, nor by reason of the non-insertion of the names of the Jurors in the body of any such Inquisition, or of any difference in the spelling of the names of any of the Jurors in the body of any such Inquisition and the names subscribed thereto, nor because any Juror or Jurors shall have set his or their mark or marks to any such Inquisition instead of subscribing his or their name or names thereto, nor because any such mark or marks is or are unattested, provided that the name or names of such Juror or Jurors is or are set forth, nor because any Juror or Jurors has or have signed his or their Christian name or names or other name or names which is not or are not a family name or names by means of an initial or partial signature only, and not at full length, nor because of any erasures or interlineations appearing in any such Inquisition, unless the same shall be proved to have been made therein after the same was signed, nor (except only in cases of murder or manslaughter) for or by reason of any such Inquisition not being duly sealed or written upon parchment, nor by reason of any such Inquisition having been taken before any Deputy instead of the Coroner himself, nor because the Coroner and Jury did not all view the body at one and the same instant, provided that they all viewed the body at the first sitting of the Inquest, and in all or any such cases of technical defect as are hereinbefore mentioned, it shall be lawful for any Judge of Her Majesty's Supreme Court at the Presidency at which such Inquest shall have been held, if he shall so think fit, upon the occasion of any such Inquisition being called in question before him, to order the same to be amended in any of the respects aforesaid, and the same shall forthwith be amended accordingly.

IV. And it is enacted, that it shall be lawful for each of the Coroners of Calcutta, Madras and Bombay from time to time to appoint, by writing under his hand and seal, a fit and proper person, such appointment being subject to the approval of the Governor of the Presidency of which he is the Coroner, to act for him as his

Deputy in the holding of Inquests; and all Inquests taken and other acts performed by any such Deputy Coroner under and by virtue of any such appointment shall be deemed and taken to be the acts and deeds of the Coroner by whom such appointment was made. Provided that no such Deputy shall act for any such Coroner except during the illness of the said Coroner, or during his absence for any lawful and reasonable cause. Provided also that every such appointment may at any time be cancelled and revoked by the Coroner by whom the same was made.

ACT No. VI. of 1848. (a)

Passed on the 4th of March 1848.

Enacts (1 and 2) that goods imported and exported on Foreign Bottoms shall be charged with the same duty as if on British; and (3) that no duty shall be charged on goods carried from one Port to another in the E. I. C. territories; (4) provides that this Act shall not apply to Salt or Opium.

An Act for equalizing the duties on Goods imported and exported on Foreign and British Bottoms, and for abolishing duties on goods carried from Port to Port in the Territories subject to the Government of the East India Company.

I. It is hereby enacted, that from and after the Twenty-fifth day of March 1848, all Goods imported on Foreign Bottoms by Sea into any Port of the Presidencies of Fort William in Bengal, Fort St. George, or Bombay, shall be charged only with the same rates of duty as such Goods would now by law be charged with if such Goods were imported into any of the said Ports on British Bottoms, any thing in any Act of the Council of India contained to the contrary notwithstanding.

II. And it is hereby enacted, that from and after the said day all Goods exported on Foreign Bottoms by Sea, from any Port of the said Presidencies, shall be charged only with the same rates of duty as such goods would now by law be charged with if such goods were exported from any of the said Ports on British Bottoms, any thing in any Act of the Council of India contained to the contrary notwithstanding.

III. And it is hereby enacted, that from and after the said day no duty shall be charged on any Goods lawfully carried from any

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(a) The port of Aden does not come within the provisions of this Act—See Act X of 1850 Section 11.

Port in the Territories subject to the Government of the East India Company to any other Port in the said Territories, any thing in any Act of the Council of India contained to the contrary notwithstanding.(a)

IV. Provided always, that nothing in this Act contained shall apply to the articles of Salt or Opium.

ACT No. VII. OF 1848.

Passed on the 25th of March 1848.

Enacts (1) that the provisions of Sec. 3 Act VI of 1848, shall not apply to goods exported to and imported from the Ports in the Straits of Malacca, (2) nor shall drawback be allowed on re-export of goods from and to Ports to which the above Section extends

An Act to except certain free Ports from the operation of Section III, Act No. VI. of 1848, *and otherwise to amend that Act.*

I. -In modification of Section III, Act No. VI. of 1848, it is hereby enacted, that the provisions of the said Section shall not apply to Goods exported from any part of the Territories subject to the Government of the East India Company, to any of the ports in the Straits of Malacca * * * * (b) nor to Goods imported from any of those ports into any port of the said Territories.

II. And it is hereby enacted, that no drawback shall be allowed on the re-export of Goods from any port in the Territories subject to the Government of the East India Company to any other port in the said Territories, to which the operation of Section III., Act No. VI. of 1848, may extend.

ACT No. XI. OF 1848.

Passed on the 20th of May 1848.

Provides (1) that whosoever is proved to have belonged to any wandering gang of thieves or robbers, not being Thugs or Dacoits, shall be punished with imprisonment with hard labor for not exceeding seven years, (2) that those who are accused of belonging to, or of receiving property stolen by such gang may be committed by any Magistrate and tried by any Court, but (3) that no Fatwa shall be required from Law Officers.

An Act for the punishment of wandering gangs of Thieves and Robbers.

Whereas it is expedient to extend some of the Provisions of the Law for the conviction of Thugs and Dacoits to other gangs of Thieves and Robbers, It is enacted as follows:

(a) This Section is modified by the following Act, VII of 1848.

(b) This portion of the Section, relating to the ports of Arracan and Tenasserim, has been repealed by Act XXX of 1854 Sec. 1.

I. Whosoever shall be proved to have belonged, either before or after the passing of this Act, to any wandering gang of persons, associated for the purposes of theft or robbery, not being a gang of Thugs or Dacoits, shall be punished with imprisonment with hard labor for any term not exceeding seven years

II. Any person accused of the offence of belonging to any such gang as aforesaid, or of the offence of unlawfully and knowingly receiving or buying property stolen or plundered by any such gang, may be committed by any Magistrate within the Territories of the East India Company, and may be tried by any Court which would have been competent to try him if his offence had been committed within the Zillah where that Court sits.

III. No Court shall on the trial of any offence under this Act require any Futwa from any Law Officer.

ACT No. XV. OF 1848.

Passed on the 17th of June 1848.

Enacts (1) that no officer of Courts established by Royal Charter or for Relief of Insolvent Debtors shall accept any gift or reward for any official act other than legal salary &c or hold office in a Bank &c. or be trader &c. except by virtue of his office; (2) but that this Act shall not be construed to forbid him, if he also practise as such, from taking the usual fees &c. of Advocate, Attorney &c, nor to apply to any Advocate &c. so far as he is held to be in that capacity, merely for some purposes, an officer of the Court, nor (3) to forbid him to hold any unpaid office in any charitable society, and (4) that, for a breach of this Act, he be punished by deprivation of office, fine &c

Act to forbid trading by the Officers of the Supreme Courts.

For the better discharge of their duties by the Officers of the undermentioned Courts of Justice, It is enacted as follows:

I. No Officer of any of the Courts of Judicature established by Royal Charter, within the Territories subject to the Government of the East India Company, or of any Court established for the Relief of Insolvent Debtors within the said Territories, shall directly or indirectly by himself, or by any other person or persons on his behalf, accept from any person or persons any gift or reward for any act or behaviour in his Office, other than his legal salary and fees and profits of office; or hold any office in any Bank or Public Company, except as hereinafter excepted, or carry on or be concerned in any dealings as a banker or trader, or as agent, factor, or broker, either for his own advantage, or for the advantage of any other person or persons: except such dealings as it may be part of the duty of any such Officer by virtue of his office to carry on

II. This Act shall not be construed to forbid any Officer of any of the said Courts, who is also a practising Advocate, Attorney, Solicitor or Proctor in any of the said Courts, from taking the usual fees and emoluments of Advocates, Attorneys, Solicitors or Proctors; nor to apply to any Advocate, Attorney, Solicitor, Proctor, Sheriff, Assignee, Receiver or Committee, so far as he is held to be in that capacity, merely for some purposes, an Officer of any of the said Courts.

III. This Act shall not be construed to forbid any Officer of any of the said Courts from holding any unpaid office in any Society for Charitable purposes, or for the advancement of knowledge, or for the encouragement of Science, Art, or Manufactures.

IV. Every Officer of any of the said Courts, who shall knowingly offend against this Act, shall, on conviction thereof, be liable to be punished by deprivation of his Office; and also, by the sentence of the Court before which he shall be convicted, may be declared incapable, and in that case shall become incapable, of being appointed to the same or any other office of the same Court, or to serve Her Majesty or the East India Company in the Territories under the Government of the East India Company, or in such part of the said Territories as shall be specified in the sentence; or in the discretion of the Court may be otherwise punished by fine, or fine and imprisonment, for his misdemeanor, as to the Court shall seem fit, regard being had to the nature of his offence.

ACT No. XVII. OF 1848.

Passed on the 26th of August 1848.

Recites expediency of substituting Stamp Duties for Institution Fees in District Moonsiffs' Courts and of authorizing the return of Stamp Duties in actions dismissed on application of parties; (1) repeals S. XVI, and C. 2, S. LVII, Reg. VI. 1816 and S. IV and V. Reg II, 1834; and (2) extends to these Courts so much of Reg. XIII, 1816 and Sec. VI. Reg. VII. 1818 as relates to the substitution of Stamp Duties, (3) enacts that on dismissal of suit by any Civil Courts, on application of parties, plaintiff shall be entitled to certificate specifying Stamp Duty paid &c., and (4) that on its presentation to Collector he shall return half or the whole of the Stamp Duty according as the suit was dismissed before or after completion of the pleadings, provided no exception be taken to the paper or endorsement.

An Act for substituting Stamp Duties instead of Institution Fees in the Courts of the District Moonsiffs in the Presidency of Madras; and for refunding Stamp Duties on Plaints in certain cases.

Whereas it is expedient to substitute Stamp Duties for Institution Fees in the Courts of the District Moonsiffs in the Presidency of Madras,

and to authorize the return of the whole or part of the Stamp Duties paid on Plaints in all Civil actions which are dismissed on application of the parties, It is enacted as follows:

I. Section XVI, and Clause 2, Section LVII, Regulation VI. 1816, and Sections IV. and V. Regulation II. 1834, of the Madras Code, shall be repealed from the First day of September in this year.

II. From and after the said First day of September, so much of Regulation XIII. 1816, and Section VII. Regulation VII. 1818, of the Madras Code, as relates to the levying of Stamp Duties instead of Fees on the institution of Civil actions, shall be applicable to the Courts of District Moonsiffs in the Presidency of Madras.

III. Whenever a suit pending in any Civil Court within the Territories subject to the Presidency of Madras shall be dismissed on application of the parties, the plaintiff shall be entitled to claim from the Court a certificate, stating the amount of Stamp Duty paid on the Plaint, with specification of the number and endorsement of the paper filed, and whether the suit was dismissed before or after the completion of the pleadings.

IV. On presenting any such Certificate to the Collector of the District within three calendar months after the dismissal of the suit, the plaintiff shall be entitled to receive back half of the said Stamp Duty if the certificate purports that the suit was dismissed after the completion of the pleadings; and if before, the whole of the said Stamp Duty: Provided always there be no exception taken to the paper or endorsement thereon.

ACT No. XIX. of 1848.

Passed on the 2d September 1848.

(1) Repeals Section XXXV Act VII, 1843 &c; provides (2) that Foujdaree Adawlut &c. may, on review of statement or calendar of persons punished without reference, annul illegal sentence and certify to Sub-Court that which may be lawfully passed, whereupon it shall pass new sentence and amend the record; (3) that, in like manner, in any case where verdict &c. was not warranted by evidence F. A. &c. may require the evidence to be certified to them and may annul the verdict &c. or mitigate the sentence; the Sub-Court shall if necessary amend the record accordingly; and (4) that F. A. &c. may call for record of any criminal trial and pass orders thereon but not so as to enhance punishment awarded, or punish persons acquitted.

For better defining the Law as to revision of the sentences of Subordinate Criminal Courts in the Presidencies of Bengal and Madras.

Whereas it has been doubted how far Section V. Regulation IX. 1831 of the Bengal Code is repealed by Act XXXI. 1841, and what power

the Foujdaree Adawlut at Madras has under Section XXXV. Act VII. 1843, It is enacted as follows

I So much of Section V Regulation IX. 1831, of the Bengal Code, as is now in force, and also Section XXXV Act VII. 1843, are repealed.

II. The Nizamut Adawlut in the Presidency of Bengal and Foujdaree Adawlut in the Presidency of Madras, in any case in which it shall appear to either of them, upon a review of the Abstract Statements or Calendars of prisoners punished without reference, that the sentence passed is one which cannot lawfully be passed on a person convicted of the offence, as stated in the Abstract Statement or Calendar, shall annul the sentence; and shall certify to the Subordinate Court the sentence or sentences which may lawfully be passed for such offence and thereupon the Subordinate Court shall pass a new sentence according to Law, and shall amend the record in accordance therewith.

III The said Nizamut Adawlut or Foujdaree Adawlut, in any case in which it shall appear to either of them, upon a review of the Abstract Statements or Calendars of prisoners punished without reference, that the verdict or judgment pronounced on any prisoner was not warranted by the evidence, or that his sentence was too severe, may, if it thinks fit, require the Judge of the Court in which the conviction was had to certify under his hand all the evidence taken in the case affecting such prisoners, with any observations which the Judge may be desirous of making in explanation of the verdict, judgment or sentence; and thereupon the Nizamut Adawlut or Foujdaree Adawlut, as the case may be, may annul such verdict, judgment and sentence, if the verdict or judgment shall appear to it not warranted by the evidence, or mitigate the sentence, if it shall appear too severe, and in either case shall certify its proceedings to the Court in which the conviction was had, which shall thereupon make such orders as are conformable to the decision of the Nizamut Adawlut, or Foujdaree Adawlut, and, if necessary, amend the record in accordance therewith.

IV Instead of proceeding under this Act, the said Nizamut Adawlut or Foujdaree Adawlut may, whenever it thinks fit, call for the whole record of any criminal trial in any Subordinate Court, and pass thereon such orders as it thinks fit, but not so as to enhance the punishment awarded, or punish any person acquitted in the Subordinate Court.

ACT No. XXI. OF 1848.

Passed on the 10th of October 1848.

Pronounces all agreements by way of gaming or wagering null and void, and money &c. won or deposited on wager irrecoverable by suit in any Court, and (2) pro-

vides that Supreme Courts, instead of directing an issue to be tried on a feigned wager for ascertaining any disputed fact, may summon and examine witnesses as witnesses in the cause, in open Court, subject to the usual penalties for disobedience &c.

An Act for avoiding Wagers.

Whereas it is expedient to discourage gaming and wagering for money, It is enacted, as follows:

I. All agreements, whether made in speaking, writing or otherwise, by way of gaming or wagering, shall be null and void: and no suit shall be allowed in any Court of Law or Equity for recovering any sum of money or valuable thing alleged to be won on any wager, or entrusted to any person to abide the event of any game, or on which any wager is made.

II. The several Courts of Justice established by Royal Charter, instead of directing an issue to be tried on a feigned wager for ascertaining any disputed fact, in the exercise as well of the Equity or Admiralty or any other Jurisdiction as of the common Law Jurisdiction of the Court, may issue summonses to witnesses and cause them to be examined orally in open Court as witnesses in the cause; and the witnesses so summoned shall be bound to attend and give their evidence in the same manner, and under the like penalties for neglect or disobedience, or for giving false evidence, as any witness duly summoned to give evidence according to the practice of the Court before the passing of this Act.

ACT No. XXII. OF 1848.

Passed on the 10th of October 1848.

Enacts that in an Indictment &c. for forging or uttering, it shall be enough to describe the instrument in such a manner as would sustain an indictment for stealing it.

An Act to simplify Indictments for Forgery.

For better avoiding the failure of justice in Criminal proceedings for Forgery, It is enacted as follows:

I. In any information or Indictment laid or brought in the Courts established by Royal Charter, for forging, or in any manner uttering, any forged instrument or writing, it shall not be needed to set forth any exact copy thereof; but it shall be enough to describe such forged instrument or writing, in such manner as would sustain an indictment for stealing it.

ACT No. XXV. OF 1848.

Passed on the 25th of November 1848.

Recites expediency of restoring Bunganapilly to the Jagheerdar; (2) revokes authority of the Agent appointed under Act X of 1843, (3) without prejudice to his previous acts,

and to the authority of the Foujdaree and Sudder Adawlut in Criminal trials and Appeals, and (4) provides that, after Agent shall have rendered an account of monies and obtained a discharge from Government, neither he nor his Assistants shall be liable in any Court of Justice, and (5) that the general authority of the E. I. C. over Bunganapilly shall not be affected by this Act.

An Act for Restoration of the Jagheer of Bunganapilly

Whereas by Act X. 1843, the administration of justice and collection of the revenue in the districts of Kurnool and Bunganapilly were vested in an Agent appointed by the Governor of Fort St. George in Council; and it is now deemed expedient to restore the Jagheer of Bunganapilly, to be holden by the Jagheerdar, subject to the same conditions and reservations as heretofore, It is enacted as follows

I. On the First day of January 1849, the authority of the Agent of the Governor of Fort St. George, appointed under Act X. 1843, shall cease as to the district of Bunganapilly; and no Agent shall thereafter be appointed for Bunganapilly under that Act.

II. All lawful proceedings of the said Agent and his Assistants before the said First day of January shall stand good.

III. The Foujdaree Adawlut and Sudder Adawlut shall continue to have and exercise the same jurisdiction respectively as to criminal trials referred by the Agent before the said First day of January, and as to appeals from any decree made by the Agent before the said First day of January, as if his authority had not ceased in the said district; and their judgments and orders shall be executed in the same manner.

IV. When the Agent shall have duly accounted to the Governor of Fort St. George in Council, for all monies received and paid by him in his administration of the revenues of the said Jagheer, and shall have received, by order of the said Governor in Council, a discharge in full of all claims against him for such administration, neither he nor any of his Assistants shall be liable to give any further account, or to be questioned for the same or any part thereof in any Court of Justice.

V. Nothing in this Act contained shall be deemed to waive or abate any part of the paramount authority and control of the East India Company over the said district, or of the Sovereign authority of the British Government.

ACT No. XXVII. OF 1848.

Passed on the 30th of December 1848.

Recites expediency of amending Act XII of 1844, and enacts, (1) in addition to the thirty-five articles therein contained, the following articles prescribing (36th) that persons

belonging to the Indian Navy guilty of manslaughter &c. shall be liable to transportation &c.; (37th) that insubordination, disorders &c. shall be punished according to degree of the offence; (38th) that when Court Martial is deemed unnecessary, the offender (not being an officer) may be punished as Commanding Officer by warrant shall adjudge; (2) that in the several cases where Court Martial may award death, as well as in offences against articles 8th, 24th, 20th and 21st, they may award transportation; (3) that Governor General in Council may commute sentences of capital punishment to transportation; (4) that persons under such sentence, or commuted sentence, shall be dealt with as other offenders under like sentence are, and their sentence carried into execution as ordered by Government; (5) and that Governor General or Governor of Madras or Bombay shall have power to direct Court Martial to be held by any superior officer &c.; (6) declares who shall be competent to act on Court Martial, as well as (7) how deficiency in members may be supplied; and (8) provides that Act XII of 1844 and this Act shall be construed as one Act.

An Act to amend the Act XII. of 1844.

Whereas it is deemed expedient that the Act No. XII. of 1844, entitled "An Act for better securing the observance of an Exact Discipline in the Indian Navy," should be amended as hereinafter is mentioned, And whereas the Court of Directors of the East India Company have given their previous sanction to the several enactments hereinafter contained, It is enacted as follows:

1. From and after the First day of February 1849 the Articles and Orders hereinafter following, as well in time of Peace as in time of War, shall be observed and put in execution in manner hereinafter mentioned in addition to the thirty-five Articles and Orders contained in the said Act, that is to say:

36th. Every person belonging to the Indian Navy who shall be guilty of Manslaughter, or any other offence against the person, or of any offence against the property, of any subject of Her Majesty, or any other person entitled to Her Majesty's protection, or to the protection of the respective Governments of the East India Company, or any other person whomsoever, not being an Enemy of Her Majesty or of the East India Company, (and the punishment of which offence is not provided for by the said Act), shall be liable to Transportation for life, or for a term of years, or to such other punishment according to the nature and degree of the offence as a Court Martial shall award.

37th. All Insubordination, Disorders, Irregularities, and Neglects which any person belonging to the Indian Navy may be guilty of, to the prejudice of good order or of discipline in the Naval Service of the East India Company, and all disgraceful conduct of a cruel or dishonest or indecent or malicious or mischievous character, though not particularly specified in the said Act, or in this Act, shall be liable to

such punishment, having regard to the nature and degree of the offence, as a Court Martial shall adjudge.

38th. Where any person belonging to the Indian Navy (not being of the Rank of an Officer), shall be guilty of any offence, which the Officer in Command of the Ship or Vessel shall deem necessary to be punished without trial by Court Martial, the offence shall be investigated by such Commanding Officer; and the offender shall be liable to such punishment (not extending to life or limb, or to transportation, or imprisonment exceeding six days, or to any corporal punishment exceeding twelve lashes), as such Officer shall by his Warrant adjudge.

II. In the several cases in which a Court Martial is by the said Act authorized to award the punishment of death, and also in grave cases of embezzlement against the 8th and 24th Articles of the said Act, and also in the case of grave offences against the 20th and 21st of the said Articles, a Court Martial may, if it shall adjudge the same to be proper, award sentence of transportation for life or for a term of years.

III. In all cases where a capital punishment shall have been awarded by a Court Martial, it shall be lawful for the Governor General in Council, (if he shall think the circumstances of the case make it proper so to do), to order the offender to be transported for life, or for a certain term of years.

IV. In cases where any sentence of transportation shall be passed under the provisions of the said Act, or of this Act, or any sentence of death be commuted to transportation, the offender shall be conveyed to or left at some one of the Presidencies of India, and shall be liable to be dealt with, as in the case of other offenders sentenced to transportion, and shall be subject to all such orders for carrying the sentence into execution as shall in that behalf be given by the Governor General in Council, or if the offender shall be at the Presidency of Fort St. George, or the Presidency of Bombay, then by the Governor in Council of such Presidency; subject, however, in the last mentioned case, to any orders made by the Governor General in Council, in case any such orders shall have been so made.

V. The Governor General of India in Council, and the Governors in Council of Madras and Bombay respectively, shall have full power and authority from time to time, as there shall be occasion, to direct any superior Officer, Captain, or Commander of the Indian Navy, who shall be in any Port of the East Indies, to hold Courts Martial in any such

Port as shall be found most expedient and for the good of the East India Company's Service; and such superior Officer, Captain, or Commander shall preside at such Court Martial.

VI. And for removing the doubts which have been entertained as to the effect and intention of the 9th Section of the said Act No. XII. of 1844, in relation to the Officers of whom Courts Martial, to be held or appointed under that Act, shall be composed, it is declared and enacted, that any Officers of the Indian Navy, ordered by Government or the Superintendent of the Indian Navy to be present at any Court Martial, for the purpose of serving thereat if required, shall be eligible to act on any Court Martial, although such Officers may not be commissioned to any Ship or Vessel.

VII. If on any occasion there shall not be present a sufficient number of Superior Officers, Captains, Commanders, and Lieutenants of the Indian Navy to form a Court Martial, for the purposes of the said Act or of this Act, the required number of Officers may, with the sanction of the Government, or Officer by whose authority the Court Martial shall have been convened, be made up or completed by any Officer or Officers in the Military Service of the East India Company then being Commissioned and in Pay, and of the Rank either of Major or Captain, who may be present, and may be ordered, or be ready, to afford his or their services on such Court Martial; and, for default of such or of a sufficient number of such, then the deficiency may be supplied by any Officer or Officers of Her Majesty's Naval Service of sufficient Rank, according to the said Act, who may be present, and may be ready to afford his or their services on such Court Martial; and the proceedings of a Court Martial so constituted shall be valid and effectual.

VIII. The Clauses and Provisions of the said Act No. XII. of 1844, for regulating the places to which and persons to whom the same is to extend, and also the other Clauses and Provisions thereof shall apply to this Act, and the two Acts shall be construed together as one Act, and the same effect shall be given thereto, and to the several Articles and Provisions thereof respectively as if the Articles and Provisions contained in this Act had been originally contained in the said Act No. XII. of 1844, and had formed part of the Articles and Provisions of that Act.

ACT No. I. OF 1849.

Passed on the 27th of January 1849.

Recites expediency of making more effectual and uniform the Regulations about trial of Natives committing criminal offences in Foreign States; (1) rescinds certain Regs.; enacts

(2) that all British subjects, and persons in the Civil and Military services &c. shall be amenable for offences committed in foreign States, and may be bailed &c. in same manner as if committed within British territories; (3) that committing magistrate shall before trial report case to Government and obey their orders thereon; (4) that Government may order trial to be had before Court having jurisdiction over similar offences committed in British territories; (5) or when the foreign state is administered by an officer of E. I. C., there being there also a competent Court, the person charged may be sent thither for trial; (6) provides, what warrant and bail-bond shall specify, and when the latter may be renewed; and (7) that order of Government shall be sufficient authority for trial and punishment within B. territories or conveyance of prisoner beyond them; (8) defines the term "Government;" and rules (9) that Commissioner or person duly delegated, may exercise these powers.

An Act to provide more effectually for the punishment of offences committed in Foreign States.

Whereas divers Regulations of the Bengal, Madras and Bombay Codes have been made from time to time for the trial of Native Subjects of the British Government, committing criminal offences beyond the limits of the British Provinces, and it is expedient to make the same more effectual and uniform, and to extend the application thereof, It is enacted as follows:

I. The undermentioned Regulations and parts of Regulations are rescinded, that is to say:

Regulation V. of 1809, Regulation VIII. of 1831, Section VI. of Regulation I. and the whole of Regulation IX. of 1822, and Regulation VIII. of 1829, of the Bengal Code; Regulation II. of 1829, and Regulation XII, of 1832, of the Madras Code; Section IV. of Regulation XI. of 1827, of the Bombay Code; except so far as any of them rescinds any former Regulation.

II. All Subjects of the British Government, and also all persons in the Civil or Military Service of the said Government, while actually in such service, and for six months afterwards, and also all persons who shall have dwelt for six months within the British Territories under the Government of the East India Company, subject to the laws of the said Territories, who shall be apprehended within the said Territories, or delivered into the custody of a Magistrate within the said Territories, wherever apprehended, shall be amenable to law for all offences committed by them within the Territory of any Foreign Prince or State; and may be bailed or committed for trial as hereafter provided, on the like evidence as would warrant their being held to bail or committed for the same offence, if it had been committed within the British Territories.

III. The Committing Magistrate, immediately, and before the trial, shall report every such case to the Government, and shall obey the orders which he shall receive thereon.

IV. The Government may order the trial to be had before one of the established Courts of Criminal Judicature, which would be competent to try the person charged for the offence, if it had been committed within the British Territories.

V. When the offence is charged to have been committed in the Territory of any Foreign Prince or State, administered by Officers acting under the authority of the East India Company, in which Territory a Court competent to try the person charged for the offence, is established by authority of the Governor General of India in Council, the Government may order such person to be conveyed in custody, out of the British Territories, for the purpose of delivering him up for trial before such Court.

VI. When the person charged is committed, the form of the warrant shall specify the commitment to be until the orders of Government can be received and acted on; when he is bailed, the form of the bail-bond shall be, in the first instance, to appear before the Magistrate on a certain day assigned, allowing reasonable time for receipt of the orders of Government, and on such subsequent days as the Magistrate from time to time shall require, and if Government shall order the persons charged to be tried within the Presidency, the Magistrate may cause the bail-bond to be renewed in the usual form, to appear and take his trial at the Court appointed for the purpose.

VII. In either case, the special order of the Government shall be deemed full authority, either for the trial and punishment of the person charged within the British Territories, or for conveying him in custody, out of the British Territories as aforesaid.

VIII. The word 'Government' as used in the third and following Sections of this Act, means the Governor or Governor in Council or other person or persons having Supreme executive authority in the Presidency or Place to which the committing Magistrate belongs.

IX. The authority herein-before given to the Government may be also exercised by any Commissioner or other person acting in the Civil Service of the East India Company, to whom the Governor General in Council shall have delegated authority to receive reports and give orders in cases within this Act.

ACT No. II. OF 1849.

Passed on the 27th of January 1849.

Recites expediency of abolishing the practice of branding and exposing Convicts; (1) rescinds certain Regulations; and (2) prohibits the making or renewing of indelible marks on Convicts, and exposing by Tusheer.

To abolish the practice of branding and exposing Convicts.

Whereas it is thought fit to abolish wholly the practice of branding and publicly exposing Convicts throughout the Territories under the Government of the East India Company, It is enacted as follows:

I. Section XI. Regulation IV. 1797, Section XXXV. Regulation VII. 1803, and Clauses Second, Third and Fourth, Section XII. Regulation XVII, 1817, of the Bengal Code, Section XXXV. Regulation VII. 1802, of the Madras Code, and so much of Clause First, Section III. Regulation II. of 1807, and of Sections IX. and X. Regulation XVII. of 1817, of the Bengal Code, so much of Section III. Regulation VI. of 1811, and Sections V. VI. Regulation II. of 1822, of the Madras Code, and all other Regulations or parts of Regulations, in force, directing that any convicted offenders shall have any indelible mark made upon their foreheads, or on any part of their persons, or authorizing any sentence of public exposure, commonly called Tusheer, and so much of Chapter II. Regulation XIV. of 1827, of the Bombay Code, as authorizes any sentence of public disgrace, are rescinded.

II. After the passing of this Act it shall not be lawful for any Court or Magistrate within the Territories under the Government of the East India Company, to order that any brand or indelible mark of any kind be made, or renewed on any part of the person of any convicted offender, or to sentence any offender to be publicly exposed by Tusheer, or to any other degrading exposure.

ACT No. IV. OF 1849.

Passed on the 10th of February, 1849.

Recites expediency of declaring what unsoundness of mind excuses the commission of criminal acts, and of providing for safe custody of such persons; enacts (1) that no person shall be acquitted for unsoundness of mind, unless by reason of it, not wilfully caused, he was unconscious of doing an act forbidden by law; (2) that that ground of excuse shall be contained in the judgment or verdict of acquittal; (3) and that the Court shall order such person to be kept in custody until pleasure of Government be known, who shall determine time and manner; (4) that persons who have been acquitted for insanity &c., may be kept in same manner as those who shall be

hereafter; (5) that discharge, on restoration to soundness of mind, shall be by order of Government; (6) that Government may order removal of prisoner believed to be of unsound mind to Lunatic Asylum &c., and may remand such person, when restored to sound mind, to prison from whence removed, if still liable to be kept in custody; or if otherwise, order his discharge; and (7) declares what the term 'Government' means.

An Act for the Safe Custody of Criminal Lunatics.

Whereas it is expedient to declare what unsoundness of mind excuses the commission of criminal acts, and to provide for the safe custody of persons found to have committed such acts, but acquitted by reason of unsoundness of mind, It is enacted as follows:

I. No person, who does an act which, if done by a person of sound mind, is an offence, shall be acquitted of such offence for unsoundness of mind, unless the Court or Jury, as the case may be, in which, according to the constitution of the Court, the power of conviction or acquittal is vested, shall find that, by reason of unsoundness of mind, not wilfully caused by himself, he was unconscious, and incapable of knowing, at the time of doing the said act, that he was doing an act forbidden by the Law of the land.

II. Whenever a person charged with any offence shall be acquitted, because he is within the exception made by the foregoing Section, the Court or Jury shall give a special judgment or verdict, that he did the act charged against him, being then of unsound mind, so as to excuse him according to law.

III. Whenever such special judgment or verdict, as aforesaid, shall have been given against any person, the Court, before which the trial was had, shall order him to be kept in safe custody, in such place and manner as to the Court shall seem fit, until the pleasure of the Government can be known thereon: and thereupon the Government may order such person to be kept in strict custody, for such time and in such manner as to the Government shall seem fit.

IV. In all cases in which, before the passing of this Act, any person has been acquitted of any offence, on the ground of insanity, lunacy, idiocy, or unsoundness of mind, such person may be kept in the same strict custody in which persons may be kept, who shall be hereafter acquitted, for unsoundness of mind.

V. No person, against whom any such special judgment or verdict shall have been given, shall be entitled to be discharged out of custody, on being restored to soundness of mind, unless by order and at the discretion of Government.

VI. Whenever it shall appear to the Government that any person, imprisoned by the sentence of any Court, is of unsound mind, the Government, by a warrant which shall set forth the grounds of belief that such prisoner is of unsound mind, may order the removal of such prisoner to a Lunatic Asylum, or other fit place of safe custody, there to be kept and treated as the Government shall order; and, when it shall appear to the Government that such prisoner has become of sound mind, the Government, by a warrant directed to the person having charge of him, shall remand such prisoner to the prison from which he was removed, if then still liable to be kept in custody, or if not, shall order him to be discharged out of custody.

VII. The word 'Government' in this Act shall be taken to mean the Governor, or Governor in Council, or other person or persons administering the Government of the Presidency or place where the trial is had.

ACT No. V. OF 1849.

Passed on the 3rd of March, 1849.

Recites doubts as to the imposition of duty on less than a Leaguer of Arrack or Asiatic Rum imported into Prince of Wales' Island &c.; and declares that in every instance, where not otherwise provided, duty shall be rateable.

An Act for better defining the Duties of Customs and Excise.

Whereas under the Regulations in force for taking a duty of twenty Spanish Dollars for each and every Leaguer of Arrack or Asiatic Rum imported into and intended for consumption within Prince of Wales' Island, Singapore and Malacca, doubts have arisen whether any duty may be taken on importation of a quantity less than a Leaguer, and it is expedient that such doubts be removed, and that the meaning of all such or the like expressions in any Regulation or Act for the levy of Customs or Excise Duties within the territories under the Government of the East India Company be plainly declared, It is declared and enacted as follows:

I. Whenever by any Regulation or Act now or hereafter to be in force, not containing any direction to the contrary, a certain duty of Customs or Excise, or in the nature thereof, is leviable on any given quantity, by weight, measure or value, of any goods or merchandise, a like duty is leviable according to the same rate on any greater or less quantity.

ACT No. VI. OF 1849.

Passed on the 17th of March, 1849.

Recites expediency of consolidating and extending the Law in respect to Pensions and Superannuation Allowances; (1) repeals certain laws; provides (2) that reduced pay or pension granted to Invalid Officers &c., for past services &c., and pension of Out-Pensioners of Chelsea or Greenwich Hospitals, as also all money due &c., on such account shall be exempt from seizure &c., by process of Court at instance of creditor &c.; (3) that all assignments &c., made in anticipation of such pension shall be null and void; but (4) that this Act shall not apply to process of Court issued prior to its passing &c. &c.

For securing Military and Naval Pensions and Superannuation Allowances.

Whereas it is expedient to consolidate and extend the operation of the law, as to the exemption of Military and Naval Pensions, and other Superannuation Allowances, from seizure under process of law, It is enacted as follows:

I. Regulation XII. 1814 of the Bengal Code, and Act XXXI. 1845, are repealed.

II. The reduced pay or pension, however called, of any Invalid Officer, Soldier, Sailor or Retainer of the Army or Navy, in the Military or Naval Service of the East India Company, and also any monthly or yearly pension, or pecuniary allowance to any person, in consideration of past services and present infirmities or old age, granted by authority of the Governor General in Council, or of the Governor or Governor in Council, or Lieutenant Governor, of any Presidency or Place within the territories under the Government of the East India Company; and also the pension of any Out-Pensioner of Chelsea or Greenwich Hospital, granted by authority of the Commissioners of Chelsea or Greenwich Hospital respectively, and also all money due, or to become due on account of any such pension or allowance, shall be exempt from seizure, attachment or sequestration by process of any Court within the said territories, at the instance of a creditor, for any demand against the Pensioner, or in satisfaction of a decree or order of any such Court.

III. All assignments, agreements, orders, sales and securities of every kind made by any such Pensioner, in respect of any money not payable at or before the making thereof, on account of any such pension, or for giving or assigning any future interest therein, are null and void.

IV. This Act shall not apply to any process of any Court established by Royal Charter, issued out of such Court before the passing of this Act, or to any assignment, agreement, order, sale or security by

any such Pensioner, made before the passing of this Act in respect of a Chelsea or Greenwich pension, or a pension or allowance granted in the Presidency of Madras, or before the 27th December 1845, in respect of a pension or allowance granted in the Presidency of Bombay, or before the 27th May 1814, in respect of a pension or allowance granted in the Presidency of Bengal.

ACT No. VIII. OF 1849.

Passed on the 12th of May, 1849.

Recites expediency of applying the provisions of Acts XXI of 1839 and III of 1842 to the Town of Madras, and authorizes any Justice of the Peace appointed Police Magistrate, to exercise the powers therein given to any Justice of the Peace in Calcutta; and (2) the reading of those Acts as if the Town of Madras &c. were mentioned therein.

An Act for assimilating the Penal Jurisdiction of Police Magistrates at Madras to that of Justices of the Peace at Calcutta.

Whereas it is expedient to apply the provisions of the Acts No. XXI. 1839, and No. III. 1842,[a] to the Town of Madras, It is enacted as follows:

(a) As these Acts have not appeared in any edition of the Acts relating to the Madras Presidency already published, they are given here for easy reference :—

ACT No. XXI. OF 1839.

Passed on the 26th of August 1839.

(1.) Repeals certain Rule &c. &c.; enacts (2) that persons charged with simple larceny (value of property stolen not exceeding 20 Rupees,) may be tried by any Justice of the Peace; and (3) sentenced to imprisonment with or without hard labor, for not more than 6 months; (4) that such person may be committed for trial before Supreme Court; (5) that the Judgment of such Justice be drawn up in form of words herein prescribed; (6) that once at least in each term all Judgments be sent to Supreme Court for lodgment; (7) that the witnesses are to be sworn or to make solemn affirmation, their depositions as well as the prisoner's being reduced to writing and signed by such Justice; and (8) that witnesses be liable to punishment by Supreme Court for refusal to attend or to give evidence; (9) empowers such Justice to order restoration of property, and for refusing to do so, to fine or imprison for one month, unless property be sooner restored: (10) enacts that persons charged with assault or battery on board of Merchant ships may be tried by such Justice and punished by fine not exceeding 100 Rs. to be levied under Act II. of 1839; and (11) that nothing in this Act shall affect the remedy of persons aggrieved by means of the writ of Certiorari.

An Act for the trial of prisoners charged with the commission of certain petty offences in the Town of Calcutta and on the River Hooghly.

I. Whereas it is expedient to make further provision in regard to such charges of felony as have been usually determined by Justices of the Peace, under the authority of the Bye Laws for the Town of Calcutta; by preventing, as far as is consistent with the attainment of justice, any delay of trial, or inconvenience to pro-

I. All powers given by Act No. XXI. 1839, or Act No III. 1842, to any Justice of the Peace for the Town of Calcutta, for the trial and punishment of certain simple Larcenies and other Felonies within the Town of Calcutta, and of assaults on board

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secutors, witnesses and jurymen; by limiting the powers heretofore exercised by such Justices; and by subjecting their proceedings upon convictions for felony to more regular control and revision: and whereas it is also expedient to provide the like remedy in cases of assaults committed in certain parts of the River Hooghly without the limits of the Town of Calcutta as hath been provided in cases of assaults committed within such limits:

It is, therefore, hereby enacted, that it shall not be lawful for any Justices or Justice of the Peace to sentence any person charged with the commission of any felony within the Town of Calcutta, or with the possession of stolen property within the same Town, by virtue of any Bye Law for the Town of Calcutta, or by virtue of such Bye Law and under Act IV of 1835, or otherwise than according to the Provisions of this Act; and the Sixth Section of a certain Rule Ordinance and Regulation entitled a Rule Ordinance and Regulation for the good order and Civil Government of the Settlement of Fort William in Bengal, passed in Council on the 26th day of July in the Year of Our Lord 1814, and Registered in the Supreme Court on the 11th day of November in the same year, is hereby repealed.

II. And it is hereby declared and enacted, that all persons charged with the commission of simple larceny within the Town of Calcutta may be tried by any Justice of the Peace for the said Town, provided the value of the property which the prisoner is charged with having stolen does not, according to the belief of such Justice, exceed twenty rupees.

III. And it is hereby provided, that such Justice of the Peace shall not have power to sentence any such person to be imprisoned with or without hard labor for a longer period than six calendar months, or to be transported.

IV. And it is hereby provided, that it shall be lawful for any Justice of the Peace before whom any person is charged with the commission of any simple larceny, at his discretion, instead of trying such person himself, to commit such person for trial before Her Majesty's Supreme Court of Justice in Calcutta.

V. And it is hereby enacted, that every such Justice, after trying any offender charged with the commission of a simple larceny, shall cause his judgment to be drawn up in the following form of words, or in such other form of words to the same effect as the case shall require, that is to say:

Be it remembered that on the day of in the Year of Our Lord at Calcutta, A. B. is (acquitted, or convicted) before me J. P. a Justice of the Peace for the Town of Calcutta, on a charge of simple larceny, for that he the said A. B. did feloniously (here specify the alleged offence and the time and place when and where the same was committed, as the case may be) and I the said J. P. believe the value of the property stolen to amount to a sum not exceeding twenty rupees, that is to say —— rupees, and I the said J.

of Merchant Ships in the River Hooghly, may be exercised by any Justice of the Peace appointed to be a Police Magistrate for the Town of Madras, for the trial and punishment of the like Larcenies and Felonies within the Town of Madras, and the like assaults on board of any Merchant Ship in the Madras Roads.

P. adjudge the said A. B. (here state that the prisoner is to be discharged, or the punishment he is to suffer, as the case may be.)

Given under my hand, the day and year first above named.

(Signed) ———.

VI. And it is hereby enacted, that once at least in every Term, and oftener if required by Her Majesty's Supreme Court of Justice at Calcutta, every such Justice shall transmit to Her Majesty's said Supreme Court of Justice all judgments whether of acquittal or conviction passed by him, together with the depositions and examinations of the witnesses and prisoners, there to be kept by the proper Officer among the records of the Court.

VII. And it is hereby enacted, that upon the trial of any prisoner for simple larceny as aforesaid, every such Justice of the Peace shall require the witnesses against and on behalf of the prisoner to be sworn, or to make solemn affirmation in cases where an affirmation is by law permitted in the place of an oath, and shall cause the depositions of the witnesses and the examination of the prisoner to be reduced into writing, and every such deposition and examination shall be signed by such Justice.

VIII. And it is hereby enacted, that upon the trial of any person charged with the commission of simple larceny before any such Justice of the Peace as aforesaid, if any person being duly summoned by such Justice shall refuse to attend as a witness, or to give evidence, he shall be liable to be punished by Her Majesty's Supreme Court of Justice at Calcutta in like manner as if he had refused to attend as a witness or to give evidence before Her Majesty's said Supreme Court of Justice.

IX. And it is hereby enacted, that upon any conviction for simple larceny as aforesaid, the Justice of the Peace before whom any person shall be so committed shall have power to order the restitution of the property stolen, if forthcoming, to the owner or his representative, and in case of its not being restored pursuant to such order, to impose on any person refusing or neglecting to restore the same a fine not exceeding 20 rupees, and in default of payment to adjudge the person guilty of such neglect or refusal to be imprisoned for the space of one Calendar month unless the property be sooner restored.

X. And it is hereby enacted, that all persons charged with the commission of any assault or battery on board of any Merchant Ship employed on Sea Voyages, in the River Hooghly, or the mouths thereof, being part of the Territories of the East India Company, may be tried before any such Justice of the Peace, and on conviction shall be liable to be punished by a fine not exceeding one hundred rupees, to be levied and enforced in manner provided by Act II. of 1839. And all the Provisions of this Act made in the case of charges of simple larceny shall, as far as they are applicable, be applied in the case of such charges of assault or battery as aforesaid.

II. In the execution of the powers of the said Acts by any Police Magistrate for the Town of Madras, the said Acts shall be read as if the Town of Madras, and Supreme Court of Judicature at Madras, were severally mentioned therein instead of the Town of Calcutta, and Supreme Court of Justice at Calcutta; and as if the Madras Roads were mentioned therein instead of the River Hooghly or the mouths thereof.

ACT No. IX. OF 1849.

Passed on the 12th of May, 1849.

Recites expediency of applying the provisions of Acts IV of 1835, I of 1837, and XXXII of 1838 to the Presidency of Madras; (1) empowers one Justice of the Peace appointed Police Magistrate, to exercise powers of two Justices &c.; and (2) to issue a warrant under 33 Geo: III. Cap: 52:—

An Act for enabling one Police Magistrate to exercise in certain cases the powers of two Justices in the Presidency of Fort St. George.

Whereas it is expedient to apply the provisions of the Acts No. IV. 1835, No. I. 1837, and No. XXXII. 1838, to the Presidency of Madras, It is enacted as follows:

I. All powers whatever in Criminal cases, which by virtue of any law now in force may be exercised by two Justices of the Peace, or by two Police

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XI. And it is hereby declared that nothing in this Act contained shall be construed to affect the remedy of any person aggrieved by the conviction of any Justice of the Peace through the means of the Writ of Certiorari.

ACT No. III. OF 1842.

Passed on the 22d of July 1842.

Extends Act XXI of 1839 to cases of petty thefts in which property stolen does not exceed 20 Rs. in value.

An Act for extending the Provisions of Act XXI. of 1839, *to certain Petty Thefts, not being cases of simple Larceny.*

I. Whereas it has been found that property has been rendered insecure in many cases, by reason of the impunity with which petty thefts, not being simple larcenies, have been committed, it is hereby enacted, that Act No. XXI of 1839, shall be extended to the following cases, where the property stolen does not exceed in value 20 Rupees, that is to say, to stealing any goods or merchandize in any vessel, barge or boat of any description whatsoever, or from any dock, wharf or quay—to stealing, by any servant, any chattel or money belonging to or in possession or power of his Master—to stealing any chattel or money from the person of another.

Magistrates within the Presidency of Fort St. George and places subordinate thereto, may be exercised by one Justice of the Peace appointed to be a Police Magistrate within the said Presidency.

II. Any one Justice of the Peace, appointed to be a Police Magistrate within the said Presidency, may issue a warrant of distress for the recovery of Arrears of Assessment accruing under the Act of Parliament 33, Geo. III. Cap. 52; and every such warrant shall have the same force as if it were under the hands and seals of two Justices.

ACT No. X. OF 1849.

Passed on the 26th of May 1849.

Recites expediency of empowering Government to depute a Member of the Board of Revenue to perform all or any of the duties of the Board in any of the districts; (1) confers this power; (2) provides that the Member so deputed shall exercise all the powers named in his Commission; (3) directs the publication of Commission as well as revocation thereof &c. in *Gazette;* and (4) the deposit of correspondence &c. in Board's office which shall be deemed its records.

An Act for appointing a Commissioner of Revenue at Madras.

Whereas it is expedient that the Governor of Fort St. George in Council should be empowered to depute a Member of the Board of Revenue to perform in any of the Districts of that Presidency all or any of the duties which, by the General Regulations and Laws of the Presidency, belong to the Board of Revenue collectively, It is enacted as follows:

I. The Governor of Fort St. George in Council may, from time to time, whenever he shall see fit, depute a Member of the Board of Revenue to perform alone, in any of the Districts of that Presidency, all or any of the duties which, by the General Regulations and Laws of the Presidency, belong to the Board of Revenue collectively.

II. When a special Commission shall be given to a Member of the Board of Revenue under this Act, the Member of the Board named therein shall by virtue thereof be empowered to exercise, within the limits of his Commission, all the powers and duties which by Law are vested in the Board of Revenue collectively, without exception, or subject to any exceptions or restrictions, which shall be prescribed in such Commission; and all Regulations and Acts concerning the Board of Revenue shall be deemed to apply to the said Commissioner within the limits of his Commission, and with regard to all things concerning the Revenues

of the District included in it, so far as is necessary to give full effect to his Commission and to this Act.

III. Every such Commission shall be published in the Fort St. George Gazette, and the Commissioner shall enter on his Office from the date of such publication; and in like manner the revocation or other determination of any such Commission shall be published in the Fort St. George Gazette.

IV. The correspondence and other documents belonging to any such Commission shall be deposited, on the determination thereof, in the Office of the Board of Revenue, and shall be deemed Records of the said Board.

ACT No. XIV. OF 1849.[a]

Passed on the 25th of August 1849.

Recites insufficiency of laws to punish tampering with Forces of E. I. C.: enacts (1) that every person maliciously &c, endeavouring to seduce any person serving in the Military or Naval force, from allegiance &c., or stirring up to commit mutinous act &c. &c. shall on conviction suffer transportation &c.; (2) that such person may be committed for trial by Sessions' or Supreme Court as case may be; (3) that no Futwa shall be required; and (4) that this Act shall not affect liability to Court Martial.

To Punish tampering with the Army or Navy.

Whereas the laws in force for punishing mutiny and sedition do not sufficiently provide for the punishment of all persons endeavouring to stir up mutiny and sedition among the Forces of the East India Company, or to seduce them from their allegiance and duty, It is enacted as follows:

I. Every person, who maliciously and advisedly endeavours to seduce any person or persons, serving or engaged to serve in the Military or Naval Forces of the East India Company, from his or their allegiance to Her Majesty, or duty to the said Company, or who endeavours to stir up any person or persons belonging to either of the said Services, to commit any act of mutiny, or to make or endeavour to make any mutinous assembly, or to commit any traitorous or mutinous practice whatsoever, shall, on conviction, suffer transportation for life or imprisonment with or without hard labour for any term, not longer than seven years, as the Court shall adjudge.

(a.) See also Act III of 1855.

II. Any person charged with any offence, punishable under this Act, may be committed by any Magistrate within the territories under the Government of the East India Company, and shall be tried by the Court of Sessions; or if the offender be not within the ordinary jurisdiction of the Court of Sessions, by the Supreme Court of Judicature established by Royal Charter within the Presidency in which he is in custody.

III. No Court shall on the trial of any offence under this Act require any Futwa from any Law Officer.

IV. This Act shall not exempt any person governed by the Articles of War from being tried by a Court Martial, and punished according to the Articles of War, nor any person belonging to the Indian Navy from being tried by a Court Martial, and punished according to the laws for the observance of discipline in the Indian Navy; but no person shall be tried for the same offence under the said Articles or Laws, and also under this Act.

ACT No. III. OF 1850.

Passed on the 11th of January 1850.

Enacts, in modification of Sec. II, Act XI of 1836, that no person shall be exempt from jurisdiction of Sudder Ameens' and District Moonsiffs' Courts.

An Act for amending the Law concerning the Jurisdiction of the Courts of Sudder Ameens and District Moonsiffs, in the Presidency of Fort St. George.

In modification of Section II. of Act XI. 1836, It is enacted as follows:

I. After the passing of this Act, no person whatever shall, by reason of place of birth, or by reason of descent, be in any Civil proceeding whatever exempt from the Jurisdiction of the Courts of the Sudder Ameens and District Moonsiffs, in the Territories subject to the Presidency of Fort St. George.

ACT No. V. OF 1850.

Passed on the 8th of March 1850.

Recites a Statute of 13 Victoria; and removes all restrictions on the coasting trade of India other than those imposed on British ships.

An Act for freedom of the Coasting Trade of India.

Whereas by an Act of Parliament passed in the thirteenth year of the reign of Her Majesty, intituled An Act to amend the Laws in force

for the encouragement of British Shipping and Navigation, it is enacted with regard to the Coasting Trade of India, that it shall be lawful for the Governor General of India in Council to make any regulations authorizing or permitting the conveyance of goods or passengers from one part of the possessions of the East India Company to another part thereof, in other than British Ships, subject to such restrictions or regulations as he may think necessary, It is enacted as follows:

I. Goods and Passengers may be conveyed from one part of the territories under the Government of the East India Company to another part thereof, in other than British Ships, without any restriction, other than is or shall be equally imposed on British Ships, for securing payment of duties of Customs or otherwise.

ACT No. VI. OF 1850.

Passed on the 15th of March 1850.

(1) Empowers Commander-in-Chief to pardon persons in the Native Army convicted of purely military offences by Court Martial, or to mitigate the punishment awarded by it; (2) provides that in such cases, a warrant shall be issued by him, (3) countersigned by a Magistrate or Judge of the Supreme Court, and (4) that all Sheriffs, Gaolers &c. shall give effect to it.

For enabling the Commander-in-Chief to pardon Military Offences.

Whereas the power of pardoning persons under sentence of a Court Martial, for offences which are not punishable by any other authority, may be entrusted to the Commander-in-Chief of the Military Forces in the service of the East India Company in each Presidency, but in all other cases ought to belong only to the Supreme Government, It is enacted as follows:

I. The Commander-in-Chief of the Military Forces in the service of the East India Company, in each Presidency, shall have power to pardon any person belonging to the said Forces, convicted by sentence of a Court Martial of any offence against the Articles of War framed for the government of the Native Officers and Soldiers in the Military service of the East India Company, which, wherever committed, is not punishable otherwise than by sentence of a Court Martial; or, instead of granting a full pardon to any such person, may remit any part of the punishment awarded for such offence.

II. In such cases, the Commander-in-Chief shall issue a Warrant under his hand, setting forth the offence, and a copy of the Warrant or

other instrument by which the offender is kept in custody in execution of the sentence, and pardoning or remitting such part of the punishment awarded for the offence as to him shall seem fit.

III. The said Warrant shall be countersigned by the Magistrate of the Zillah, or City in which the offender is undergoing his sentence; or, if he is confined in any prison belonging to one of the Supreme Courts of Judicature established by Royal Charter, shall be countersigned by a Judge of such Court, if it shall appear to such Magistrate or Judge that the offence, wherever committed, is not punishable by any authority other than that of a Court Martial; but not otherwise.

IV. All Sheriffs, Gaolers, and other persons having custody of any offender under sentence of a Court Martial, shall obey and give effect to any Warrant of the Commander-in-Chief, countersigned by a Magistrate, or Judge of the Supreme Court as aforesaid, for the pardon and release of any offender in their custody respectively, or for the remission of any part of his sentence.

ACT No. VII. OF 1850.

Passed on the 15th of March 1850.

Recites expediency of empowering Government to remove prisoners from one prison to another; (1) repeals Act VIII of 1844; and (2) confers this power in cases of persons imprisoned by authority other than the Supreme Court; (3) provides that the time occupied in removal shall be reckoned as part of that imprisonment.

An Act for better defining the Law as to the removal of Prisoners.

Whereas, by the Regulations in force, prisoners may in certain cases be removed from one prison to another by special order of the Nizamut Adawlut or Foujdaree Adawlut, and in other cases by the Governor or Governor in Council of the Presidency; and it is expedient that the Government should be empowered to direct such removal, in every case which appears necessary, without application to the Court for a special order, It is enacted as follows:

I. Act VIII. 1844, is repealed.

II. When any person is under sentence of imprisonment, within the territories under the Government of the East India Company, by any authority other than that of one of the Supreme Courts of Judicature established by Royal Charter, the Governor or Governor in Council, or other person administering the Government of the Presidency or place, may order the removal of such prisoner from the prison, or place, in

which he is confined, to any other public prison or place of confinement within the same Presidency or Government.

III. The time of removal from one prison to another, or while the prisoner is in custody under such warrant of removal, shall reckon as part of his imprisonment.

ACT No. IX. OF 1850.

Passed on the 15th of March 1850.

Recites expediency of amending constitution &c. of Courts for the recovery of Small Debts: enacts (1) that such Courts shall be holden according to provisions of this Act; (2) defines the terms "Governor in Council" and "Supreme Court"; (3) rescinds certain Regulations, Acts of Parliament &c.; prescribes (4) the style of the Court, and (5) its jurisdiction, but that no proclamation shall be made in respect to this latter without the previous sanction of Governor General of India in Council; enacts (6) that such Court shall be Court of Record and of Requests under meaning of Act VII. 1841, Sec. VI.; (7) that all proceedings commenced before altered constitution of Court may be continued &c. as if under this Act, and that the Court may take orders in reference to manner of continuing &c.; (8) that Governor in Council shall appoint Judges, not exceeding 3, one of whom shall be Barrister at Law &c.; (9) that no Judge shall practise as Advocate &c. or trade on his own or others' account, or be a partner of any person who does so; (10) that Governor General in Council may remove such Judge; (11) that Judge of Supreme Court, sitting in such Court, may exercise powers conferred by this Act, and that no appointment of Judge be made while it appears that the whole business of Court may be so transacted; (12) that in such case ministerial officers of Supreme Court may perform duties prescribed for Clerk and Bailiffs and receive remuneration from fees of Court; (13) that appointment and removal of Clerk shall rest with Court subject to approval of Governor in Council; (14) defines duties of the Clerk; (15) provides that Court may appoint Bailiffs, and (16) defines their duties; (17) enacts that Clerk or other officer concerned in trade or acting as Attorney shall forfeit 500 Rupees to any person suing for the same; (18) that Clerk and Bailiffs shall give security; (19) that certain fees shall be payable and carried to General Fund of the Court; and (20) regulates the time and the proportions in which they shall be payable; poor suitors being exempted therefrom at discretion of Judges; provides (21) that Governor in Council may lessen and again increase fees; (22) and make rules for securing balance and other money &c.; (23) that Court shall sit daily, Sundays &c. excepted, and the Judges when sitting apart shall exercise individually the judicial authority given to all; (24) that Court shall have a seal, that all summonses &c. shall be impressed with it, and that forgery of it on any process shall be deemed felony; (25) defines jurisdiction of the Court, and what shall be deemed a bar to a legal demand; (26) declares what summons shall contain, what shall be good service, what shall not vitiate it, and (27) how and when misstatement in it may be rectified; (28) as well as who shall be deemed within jurisdiction of the Court; (29) provides how summons beyond jurisdiction may be served; (30) and how service proved; enacts (31) that any minor may sue under certain circumstances; (32) that jurisdiction shall extend to any demand of partnership, debt, &c. (33) that Executor or Administrator,

may sue and be sued as if a party in his own right, six months after death of person appointing him; (34) that plaintiff shall not divide cause of action, but may abandon the excess and then recover; (35) that Governor, Supreme Court Judges, &c. &c. shall not be liable to arrest &c., nor shall certain parties without consent of Governor in Council; (36) that service of summons on one of several jointly liable shall be sufficient, and that in case of misjoinder, suit may proceed against such as are liable, judgment being given for costs for the rest; (37) that questions of fact and law shall be determined as in Supreme Court; (38) that on appearance of parties cause shall proceed in a summary way; (39) that defendant may set-off his claim against plaintiff; (40) that on consent of the parties, Judge may refer the matter of dispute to arbitration; that the award shall be binding, unless, on application, Court shall see fit to set it aside &c.; (41) that Judges, subject to approval of Supreme Court, may make rules of practice &c.; (42) that on plaintiff's non-appearance the cause shall be struck out, or, failing to prove his demand, shall be nonsuited, or judgment given for defendant, with compensation for loss of time, and that on defendant's admission Court may give judgment for plaintiff; (43) that on non-appearance of defendant Court may either issue writ of attachment, or decide the cause ex-parte, granting a new trial if sufficient cause be shewn; (44) that time may be granted to parties, and Court adjourned for further hearing; (45) that defendant may pay into Court such sum as he thinks a full satisfaction for the demand, after which plaintiff may proceed at his own risk as to costs &c; (46) that, subject to existing regulations, the parties, their wives &c. may be examined on behalf of each other; (47) that persons shall be examined on oath or solemn affirmation, and for false evidence deemed guilty of perjury; (48) that summons to witnesses may be obtained at Clerk's office and any number of names inserted therein; (49) that persons summoned, and persons in Court, refusing to give evidence, and produce books &c. shall be fined, not exceeding 100 Rs. which after deducting the costs may be applied to indemnifying the party injured; (50) that, in causes exceeding 30 Rs. defendant evading process or disposing of effects &c. shall be apprehended and committed to goal until judgment shall be pronounced; (51) that payment of fine shall be enforced in same manner as payment of debt; and (52) so shall payment of costs, which, unless otherwise provided for, shall abide the event of the action; (53) that the order and judgment of the Court, except provided for otherwise, shall be final, that Judges may non-suit, order new trial &c; (54) that, except under certain circumstances, no suit shall be removed into Supreme Court; (55) that questions of law and equity may be reserved for opinion of Supreme Court, as well as those on which two Judges sitting together may differ; (56) that order may be made as to time &c. of payment of debt; (57) that, if there be cross-judgments between the parties, execution shall be taken for the balance of money due &c; (58) that execution may be taken against the body or goods of debtor at the request of the prosecutor; (59) that execution, in default of instalments, may issue for the whole sum due; (60) that person apprehended under warrant shall be taken to prison of the Court, there to remain for term specified &c. but not longer than 6 months; (61) that no person shall be imprisoned twice for the same debt or execution issue against body and goods at the same time; (62) that one week's diet-money, to be paid to the goaler, shall be deposited by person suing out warrant; (63) that further deposits shall be made monthly; and (64), in default, prisoner be discharged; (65) that diet-money shall be costs in the cause and be repaid; (66) that prisoner may be discharged on giving security; or (67) on payment of dues; (68) that imprisonment shall

not extinguish liability to pay, but property shall become liable; (69) that, except implements of trade &c. Bailiff may seize goods, money, Bank notes &c; and (70) deliver the same to Clerk &c. and plaintiff may sue &c. in name of defendant; (71) that Judge may temporarily suspend or stay judgment &c. if from sickness or other sufficient cause defendant be unable to pay; (72) that, except under the consent of the party whose they are, sale of goods &c. seized shall not take place until after 5 days; (73) that they be placed in safe custody; (74) that Bailiffs &c. be appointed Brokers and Appraisers; and (75) that they alone shall sell the goods; (76) that one anna per rupee be taken as costs on proceeds of sales to be applied towards payment of contingent charges &c; and (77) that the Clerk shall keep an account thereof; (78) that judgment against defendant who has gone beyond the jurisdiction of the Court may, on application of plaintiff, be executed by Judge of the Zillah in which he is, unless he shew cause why it should not be; (79) that no judgment &c. be stayed &c. by writ of error &c. unless amount recovered exceeds 100 Rs. and the person suing give the prescribed security; (80) that the execution of warrant, which shall specify sum due &c. shall be superseded by the acceptance of the party entitled thereto of the whole or any portion of the debt &c; (81) that Clerk shall cause a record of all summonses and other proceedings of the Court to be fairly entered in the Court's books to be duly authenticated by one or more Judges and that such book be evidence of proceedings; (82) that he shall also prepare on the 1st of March each year, a list of monies in Court unclaimed for previous 5 years, and after publication thereof, carry the same to Fees Account to the exclusion of all except infants &c; (83) provides punishment for misbehaviour in Court, (84) for assault &c. on officers of Court while in execution of duty, (85) for the neglect of Bailiff to execute warrant; (86) for offences committed under colour or pretence of office; and (87) for accepting fee or reward; (88) provides how action brought for erroneous seizure of goods, may be settled; (89) extends the power of Act VII of 1847 to recovery of arrears of rent not exceeding 500 Rs.; rules (90) that affidavit therein required may be made by person entitled to arrear or his attorney; (91) that the owner or his agent may summon as tenant or occupier of his house or land without leave &c. to shew by what title he claims to occupy &c.; and (92) if he do not appear and shew cause &c., the owner or agent may give proof of termination of tenantcy &c.; (93) whereupon and on proof of service of summons &c. Judges may issue warrant to Bailiff to give possession to the owner &c., but that entry shall not be made on certain days, nor shall person suing be protected from an action brought against him by the occupier; (94) that such summons may be served in special manner by leave of Court; (95) exempts Judges &c. by whom warrant was issued and executed from prosecution; (96) that irregularity in mode of obtaining possession shall not be deemed trespass if owner had lawful right to possession; but action may be brought for damages &c.; (97) otherwise the issuing of the warrant shall be deemed trespass, and execution thereof stayed on occupier giving security to sue to try the right &c.; (98) that recovery of possession shall be no bar to regular suit in Supreme Court; (99) that bond given on removal of suit &c. &c. shall be made to the other party, and regulates how it may be enforced if forfeited; (100) provides that officers of Court may be sued in Supreme Court except in certain cases; (101) and under what circumstances plaintiff and defendant are severally entitled to costs &c; (102) that in actions against Clerk &c. unless damages be greater than 500 Rs. &c. plaintiff shall have no costs; (103) that penalties, fines &c. upon proof before a Justice of Peace &c., shall be levied

by distress and sale of goods &c. the surplus being returned to owner on application; (104) that if such penalties &c. be not forthwith paid offender may be detained until return of warrant, unless he give security &c; and (105), if on return of warrant it appears that no sufficient distress can be had, offender may be committed to gaol &c.; (106) that, if not otherwise provided for, such monies shall be paid to Clerk; prescribes (107) in what manner Magistrate shall proceed for recovery of penalties &c.; and (108) the form of conviction under this Act; (109) that no verdict &c. &c. shall be quashed, or vacated for want of form; (110) that distress shall not be deemed unlawful &c. &c. for want of form &c. &c. in summons &c. &c.; but party aggrieved may recover special damages; and (111) that actions against persons for anything done in pursuance of this Act shall be commenced within three months, notice thereof being given to defendant &c. &c.—Schedule of fees.

An Act for the more easy recovery of Small Debts and Demands in Calcutta, Madras and Bombay.

Whereas it is expedient to amend the constitution and practice, and to extend the jurisdiction, of the several Courts established at Calcutta, Madras and Bombay, for the recovery of Small Debts, It is enacted as follows:

I. The several Courts of Commissioners and of Requests, for the recovery of Small Debts, now holden in the towns of Calcutta, Madras and Bombay, under the authority of the Charter of Justice of King George the Second, and of two Acts of Parliament, severally passed in the thirty seventh year and fortieth year of the reign of King George the Third, and of the Regulations and Proclamations made, from time to time, for constituting, and for new modelling, altering and reforming the constitution and practice of the said Courts respectively, and of Act XII. 1848, shall be holden according to the provisions of this Act, from and after such several days as shall be declared within the said towns by proclamation, to be made and published in due form of law in each of the said towns by the Governor in Council.

II. Where in this Act the words "Governor in Council," or "Supreme Court," are used, they shall be taken to apply severally to the person or persons administering the executive Government, and to the Supreme Court, established under Royal Charter of each of the Presidencies of Fort William in Bengal, Fort St. George, and Bombay, with reference only to the Court holden under this Act, in the same Presidency.

III. From and after the day declared in any such proclamation, all provisions of the said Charter of Justice, and Acts of Parliament, and of any Regulation, Act or Proclamation heretofore made concerning the constitution or practice of the Court, referred to in such proclamation, shall be rescinded and repealed.

IV. The style of the several Courts holden under this Act, shall be the ( ) Court of Small Causes, inserting in the blank space, Calcutta, Madras or Bombay, as the case requires.

V. The jurisdiction of the several Courts, holden under this Act, shall extend over the whole district now within the jurisdiction thereof respectively, and over such further district as may, from time to time, be declared by proclamation of the Governor in Council: provided, that no proclamation for extending the district of any of the said Courts be made without the previous sanction of the Governor General of India in Council.

VI. Every Court holden under this Act shall be a Court of Record and shall be deemed a Court of Requests within the meaning of Act VII. 1841, Section VI.

VII. All proceedings commenced in any of the said Courts, before the time when the constitution and practice of such Court shall be altered under this Act, may be continued, executed and enforced against all persons liable thereunto, in the same manner as if they had been commenced according to this Act: and each of the said Courts shall be empowered in any case of doubt as to the proper manner of continuing, executing or enforcing any such proceedings, to make such orders thereon as shall appear to the Court to be necessary for giving full effect to this enactment.

VIII. The Governor in Council shall appoint as many persons as are necessary, not exceeding three, to be Judges of the Court, one of whom shall be a Barrister at Law, or Advocate of one of the Supreme Courts of India, or of the Court of Session in Scotland.

IX. No Judge appointed under this Act shall, during his continuance as such Judge, practise as an Advocate, Attorney, or Vakeel in any of the Queen's Courts, or in any Court of the East India Company, or trade or traffic for his own benefit, or for the benefit of any other person, or be the partner of any person so practising, trading, or trafficking.

X. The Governor General of India in Council may remove any such Judge on the application of the Governor in Council.

XI. Any Judge or Judges of the Supreme Court of Judicature, who shall consent to aid in the execution of this Act, may exercise all the powers of a Judge appointed under this Act, and suits may be tried by him sitting in the Supreme Court under this Act in like manner as if he were a Judge of the Court of Small Causes, and no

appointment of a Judge under this Act shall be made, while it appears to the Governor in Council that the whole business of the Court can be transacted by the Judges of the Supreme Court so consenting to act.

XII. The duties herein directed to be performed by the Clerk and Bailiffs respectively of the Court of Small Causes, shall be performed in such cases as are tried by a Judge of the Supreme Court, by such Ministerial Officers of the Supreme Court as shall be, from time to time, appointed by the said Judge of the Supreme Court for that purpose, and the persons so appointed shall have all the powers and protections by this Act given to the Clerk and Bailiffs of the Court of Small Causes respectively, and shall receive such remuneration for their services out of the fees received in the causes tried by a Judge of the Supreme Court as he shall deem reasonable, and the residue shall form part of the general fund of the Court of Small Causes.

XIII. There shall be a Clerk for every Court holden under this Act, whom the Judges of the Court shall appoint, subject to the approval of the Governor in Council, and may remove, subject to the like approval: if necessary, additional Clerks may be appointed with the sanction of the Governor in Council.

XIV. The Clerk of each Court shall issue all summonses, warrants, precepts and writs of execution, and keep an account of all proceedings of the Court, and shall take charge of, and keep an account of all Court fees, and fines payable or paid into Court, and of all monies paid into, and out of Court, and shall enter an account of all such fees, fines, and monies in a book belonging to the Court, to be kept by him for that purpose, and shall monthly, or at such other times as shall be directed by the Governor in Council, submit his accounts to be audited or settled in such manner as the Governor in Council, from time to time, shall direct.

XV. The Judges of every such Court shall, from time to time, appoint a sufficient number of persons to be Bailiffs of the Court, not exceeding the number, from time to time, allowed by the Governor in Council, and may at their pleasure suspend or dismiss any Bailiff so appointed.

XVI. The Bailiffs shall attend every sitting of the Court, for such time as shall be required by the Judges, and shall serve all the summonses and orders, and execute all the warrants, precepts, and writs, issued out of the Court; and shall, in the execution of their duties,

conform to all such general rules as shall be, from time to time, made for regulating the proceedings of the Court.

XVII. Every Clerk, or other Officer of any such Court, who shall, by himself or by any partner, or in any way, directly or indirectly be concerned or act as Attorney, or Vakeel, or be concerned in any trade or profession on his own account, or for any other person, shall forfeit and pay the sum of Five Hundred Rupees to any person who shall sue for the same in the Supreme Court by action of debt or on the case.

XVIII. The Clerk and Bailiffs shall give security for such sum, and in such manner and form, as the Governor in Council, from time to time, shall order, for the due performance of their several offices, and for the due accounting for and payment of all monies received by them under this Act, or which they may become liable to pay for any misbehaviour in their office

XIX. There shall be payable in the Courts holden under this Act the fees set forth in the annexed Schedule, beside the sum of Two Annas in the Rupee on the amount of the sum claimed, which fees shall be paid over to an account to be termed the General Fund of the Court.

XX. The rateable fee or commission shall be paid by the plaintiff before the summons issues, the other fees on every proceeding shall be paid in the first instance by the plaintiff or party on whose behalf such proceeding is to be had, on or before such proceeding: if the plaintiff recovers a less sum than he has demanded, the defendant shall not, in any case, be required to repay to him more than the fees and commission calculated upon the sum recovered. If the case is settled by agreement of the parties, before hearing, half the amount of the fees paid up to that time shall be returned to the parties by whom they have been severally paid. The Judges of the said Court may at their discretion grant summons to poor plaintiffs without deposit, or with a partial deposit of fees and commission, and also may remit costs holly or partially to poor suitors.

XXI. The Governor in Council, may, at any time, lessen the amount of the fees to be taken in the Courts holden under this Act in such manner as to him shall seem fit, and may again increase such fees, so that the scale of fees given in this Act be not in any case surpassed.

XXII. The Governor in Council shall, from time to time, make such rules as to him shall seem meet for securing the balances, and

other sums of money in the hands of any officers of every Court holden under this Act, and for the due accounting for and application of all such balances and other sums of money.

XXIII. The Courts shall sit daily, except on Sundays, Christmas-day, and Good Friday, and on Native or other Holidays, which the Governor in Council shall direct the Court to observe; and each of the Judges may sit apart from the others or with either of them, at the same time or at different times; and any one or two of the said Judges so sitting apart shall have all the judicial authority, which is herein given to all the Judges.

XXIV. A Seal shall be made for every Court holden under this Act, under the direction of the Governor in Council, and all summonses and other process issuing out of the Court shall be sealed or stamped with the seal of the Court: and every person, who shall forge the seal or any process of the Court, or who shall serve or enforce any such forged process, knowing the same to be forged, or deliver or cause to be delivered to any person any paper falsely purporting to be a copy of any summons, or other process of the said Court, knowing the same to be false, or who shall act or profess to act under any false colour or pretence of the process of the said Court, shall be guilty of felony.

XXV. All suits, where the debt or damage claimed or value of the property in dispute is not more than Five Hundred Rupees, whether on balance of account or otherwise, may be brought in the Court of Small Causes; and all such suits brought in the said Court shall be heard and determined in a summary way, and every defence which would be deemed good in the Supreme Court sitting as a Court of Equity shall be a good bar to any legal demand in the Court of Small Causes. Provided always, that the Court shall not have jurisdiction in any matter concerning the revenue, or concerning any Act ordered or done by the Governor, or Governor General, or any Member of the Council of India or of any Presidency, in his public capacity, or done by any person by order of the Governor General or Governor in Council, or concerning any Act ordered or done by any Judge or Judicial Officer in the execution of his office, or by any person in pursuance of any judgment or order of any Court, or any such Judge or Judicial Officer, or in any suit for libel or slander.

XXVI. On the application of any person desirous to bring a suit under this Act, the Clerk of the Court shall issue under the seal of the Court a summons which shall be numbered, and shall set forth the names of the plaintiff and defendant, the cause of action, with such particulars as shall be, from time

to time, directed by the Rules of the Court, and the amount sued for, and shall be served on the defendant, so many days before the day on which the Court shall be holden at which the cause is to be tried as shall be directed by the rules for regulating the practice of the Court; and delivery of such summons to the defendant, or in such other manner as shall be specified in the rules of practice, shall be deemed good service; and no misnomer or inaccurate description of any person or place in any such summons shall vitiate the same, if the person or place be therein described so as to be commonly known.

XXVII. No misstatement of the cause of action in the summons issued under this Act shall vitiate the same, and the Judges of the Court may, in their discretion, rectify such misstatement as soon as discovered, and alter the record accordingly, and if the defendant, or one of the defendants be present in Court at the time of such discovery, the hearing of the cause after the record shall have been so altered, shall be proceeded with as if no such misstatement had happened, but in the absence of the defendant or of all the defendants a new summons of the same number and date as the original summons shall be issued with the altered statement of the cause of action.

XXVIII. All persons shall be deemed within the jurisdiction of the Court, who dwell or carry on their business or work for gain within the district of the Court at the time of bringing the action, or who did so dwell or carry on their business or work therein at the time when the cause of action arose, or within six months before the time of bringing the action for causes of action which arose within the same time.

XXIX. Any summons or other process of any of the said Courts, service of which is needed out of the district of the Court, may be exhibited in any Court of Law, or before any Magistrate, and shall be thereupon endorsed by the Magistrate or Judge of such Court; and, when so endorsed, may be served in like manner as any order or process from such Court or Magistrate; and such service shall be as valid as if the same had been made by the Bailiff of the Court out of which such summons or other process shall have issued within the Jurisdiction of the Court for which he acts.

XXX. Service of any summons or other process of the Court, which shall require to be served out of the district of the Court, may be proved by affidavit, or solemn affirmation, purporting to be sworn or made before any Judge or Magistrate; and, in every case of the unavoidable absence of the Bailiff by whom any summons or other process of the Court has been served, the service of such summons or other process

may be proved, if the Judges think fit, in the same manner as a summons served out of the district of the Court.

XXXI. Any minors may prosecute a suit in any Court holden under this Act for any sum of money not greater than Five Hundred Rupees, which may be due to him for wages or piecework, or for work as a servant, in the same manner as if he were of full age.

XXXII. The Jurisdiction of the Court shall extend to the recovery of any demand, not exceeding the sum of Five Hundred Rupees, which is the whole or part of the unliquidated balance of a partnership account, or the amount or part of the amount of a distributive share under an intestacy, or of any legacy under a will

XXXIII. Any Executor or Administrator may sue and be sued in any Court holden under this Act, in like manner as if he were a party in his own right, and judgment and execution shall be such as in the like case would be given or issued in the Supreme Court in the like case but no Executor or Administrator shall be summoned in that capacity within six months after the death of the person, whose Executor or Administrator he is.

XXXIV. A plaintiff shall not be allowed to divide any cause of action, for the sake of bringing two or more suits in any of the said Courts, but any plaintiff, having cause of action for more than Five Hundred Rupees, may abandon the excess, which shall be entered in the record, and stated in the summons, and thereupon the plaintiff shall, on proving his case, recover to an amount not exceeding Five Hundred Rupees, and the judgment of the Court shall be in full discharge of all demands in respect of such cause of action, and entry of the judgment shall be made accordingly.

XXXV. The Governor General, and Members of the Supreme Council of India, the Governors and Members of Council of the Presidencies of Fort William in Bengal, Fort St. George and Bombay respectively, and the Chief Justices and Judges of the several Supreme Courts established therein by Royal Charter, shall not be liable to arrest, or imprisonment by process issuing out of any Court holden under this Act, and no writ or process shall be sued out of the said Court against any of the persons privileged by Act I. 1844,[a] or Act XVIII. 1848,[b] without the consent of the Governor in Council.

XXXVI Where any plaintiff shall have any demand recoverable under this Act, whether founded on contract or wrong, against two or more persons jointly answerable, it shall be sufficient if any of such persons be served with

(a) For securing certain privileges to the Nabob of the Carnatic, his family and retinue.

(b) For continuing certain privileges to the family of the Nabob of Surat.

process, and judgment may be obtained and execution issued, against the person or persons so served, notwithstanding that others, jointly liable, may not have been served or sued, or may not be within the jurisdiction of the Court; and every such person against whom judgment shall have been obtained under this Act, and who shall have satisfied such judgment, shall be entitled to demand and recover in the Court, holden under this Act, contribution from any other person jointly liable with him; and in all cases of misjoinder of defendants, the Judges may order the suit to proceed against such of the defendants only against whom cause of action appears, and may give judgment against them only; giving also judgment for costs for the defendants improperly joined.

XXXVII. The Judges of the Court shall be empowered to determine all questions as well of fact as of law or equity, as administered in the Supreme Court, in all cases which they have authority to try.

XXXVIII. On the day in that behalf named in the summons, the plaintiff shall appear, and thereupon the defendant shall be required to appear to answer; and on answer being made in Court, the Judges shall proceed in a summary way to try the cause, and give judgment, without further pleading or formal joinder of issue.

XXXIX. A defendant, having any cause of action against the plaintiff, whether or not the same exceeds five hundred rupees, shall be entitled to set the same against the plaintiff's demand, and if judgment is given in such case for the plaintiff, shall be entitled to sue the plaintiff for the balance only of his original demand, after deducting the amount of debt or damages and costs recovered against him under this Act.

XL. The Judges may, in any case, with the consent of both parties to the suit, order the same, with or without other matters within the jurisdiction of the Court in dispute between such parties, to be referred to arbitration, to such person or persons, and in such manner, and on such terms as they shall think reasonable and just; and such reference shall not be revocable by either party, except by consent of the Judges; and the award of the arbitrator or arbitrators or umpire shall be entered as the judgment in the cause, and shall be as binding and effectual to all intents, as if given by the Judges; provided, that the Judges may, if they think fit, on application to them at the first Court held after the expiration of one week, after the entry of such award, set aside any such award, or may, with the consent of both parties, revoke the reference, or order another reference to be made in the manner aforesaid.

XLI. The Judges of each Court, holden under this Act, subject to the approval of the Judges of the Supreme Court, shall have power to make and issue all the general rules for regulating the practice and proceedings of the Court, and also to frame forms for every proceeding in the Court for which they shall think it necessary that a form be provided, and also for keeping all books, entries, and accounts to be kept by the Clerk of the Court, and, from time to time, to alter any such rule or form; and the rules so made and the forms so framed, shall be observed and used in the Court of that Presidency, and shall be sent to the Supreme Court for approval, but shall be of force until disapproved; and in any case, not expressly provided for herein, or by the said rules, the general principles of practice in the Supreme Court may be adopted and applied at the discretion of the Judges, to actions and proceedings in their Court.

XLII. If upon the day of the return of any summons, or at any continuation or adjournment of the said Court, or of the cause for which the said summons shall have been issued, the plaintiff shall not appear, the cause shall be struck out; and if he shall appear, but shall not make proof of his demand to the satisfaction of the Court, the Judges may nonsuit the plaintiff or give judgment for the defendant; and, in either case, where the defendant shall appear and shall not admit the demand, may award to the defendant, by way of costs and satisfaction for his trouble and attendance, such sum as they, in their discretion, shall think fit; and such sum shall be recoverable from the plaintiff by such ways and means as any debt or damage ordered to be paid by the same Court can be recovered: provided always, that if the plaintiff shall not appear when called upon, and the defendant, or some one duly authorized on his behalf, shall appear, and admit the cause of action to the full amount claimed, and pay the fees payable in the first instance by the plaintiff, the Court, if it shall think fit, may proceed to give judgment, as if the plaintiff had appeared.

XLIII. If on the day so named in the summons, or at any continuation or adjournment of the Court, or cause in which the summons was issued, the defendant shall not appear or sufficiently excuse his absence, or shall neglect to answer when called in Court, the Judges, upon due proof of service of the summons, may issue a writ of attachment to compel the appearance of the defendant; or, in their discretion, may proceed to the hearing or trial of the cause on the part of the plaintiff only; and the judgment thereupon shall be as valid as if both parties had attended; provided always, that the Judges in any such case, at the same or any subsequent Court, may set aside any

judgment so given in the absence of the defendant, and the execution thereupon; and may grant new trial of the cause, upon such terms, as to payment of costs, giving security for debt or costs, or otherwise, as they think fit, on sufficient cause shown to them for that purpose.

XLIV. The Judges may, in any case, make orders for granting time to the plaintiff or defendant to proceed in the prosecution or defence of the suit, and also may, from time to time, adjourn any Court, or the hearing or further hearing of any cause, in such manner as to them may seem fit.

XLV. The defendant in any action brought under this Act, for the recovery of money, whether for debt or damages, within such time as shall be directed by the rules for regulating the practice of the Court, may pay into Court such sum of money as he shall think a full satisfaction for the demand of the plaintiff, with the costs incurred by the plaintiff up to the time of such payment; and the said sum of money shall be paid to the plaintiff; but, if he shall elect to proceed, and, if the plaintiff shall recover no further sum in the action than shall have been so paid into Court, the plaintiff shall pay to the defendant the costs incurred by him in the said action after such payment; and such costs shall be settled by the Court, and an order shall thereupon be made by the Court for the payment of such costs by the plaintiff.

XLVI. On the hearing or trial of any action or any other proceeding under this Act the parties thereto, their wives, and all other persons may be examined, on behalf of either the plaintiff or defendant, subject nevertheless to the Acts and Regulations in force, with respect to the examination of women of a rank and situation in life, which, according to the customs of the country, would render it improper to compel them to appear in a Court of Justice.

XLVII. Every person shall be examined on oath, or, when exempt by law from taking an oath in any Court of Justice, on solemn affirmation, and every person, who, in any examination upon oath or solemn affirmation under this Act, shall wilfully and corruptly give false evidence, shall be deemed guilty of perjury

XLVIII. Either of the parties to the suit or any other proceeding under this Act may obtain, at the office of the Clerk of the Court, summonses to witnesses, with or without a clause requiring the production of books, deeds, papers and writings in their possession or control, and in any such summons any number of names may be inserted.

XLIX. Every person on whom any such summons shall have been served, either personally or in such other manner as shall be directed by the general rules or practice of the Court, and who shall refuse or neglect, without sufficient cause, to appear, or to produce any books, papers, or writings required by such summons to be produced, and also every person present in Court, who shall be required to give evidence, and who shall refuse to be sworn and give evidence, shall forfeit and pay such fine, not exceeding One Hundred Rupees, as the Judges shall set on him; and the whole or any part of such fine, in the discretion of the Judges, after deducting the costs, may be applied towards indemnifying the party injured by such refusal or neglect.

L. The Judges of any Court established under this Act, in all suits where the debt or demand exceeds the sum of Thirty Rupees, upon proof before them, that any defendant against whom a summons has been taken out, conceals himself from, or otherwise evades process of the Court, or is disposing of his property and effects with intent to defraud the plaintiff, or his creditors generally, or is about to withdraw his person or effects from the jurisdiction of the Court, may issue a warrant for the apprehension of such person, and may commit him to gaol until he shall find security for his appearance in the said Court from time to time, until judgment shall be pronounced in the suit commenced by such summons, and for payment of the amount and the costs which may be decreed against him therein.

LI. Payment of any fine imposed by any Court under the authority of this Act may be enforced upon the order of the Judges, in like manner as payment of any debt adjudged in the said Court, and shall be accounted for as herein provided.

LII. All the costs of any action or proceeding in the Court, not herein otherwise provided for, shall be paid by or apportioned between the parties, in such manner as the Judges shall think fit; and, in default of any special direction, shall abide the event of the action; and execution may issue for the recovery of any such costs, in like manner as for any debt adjudged in the said Court.

LIII. Every order and judgment of any Court holden under this Act, except as herein provided, shall be final and conclusive between the parties; but the Judges shall have power to nonsuit the plaintiff, in every case in which satisfactory proof shall not be given to them, entitling either the plaintiff or defendant to the judgment of the Court; and shall also in every case whatever have the power, if they shall

think fit, to order a new trial to be had, upon such terms as they shall think reasonable, and in the meantime to stay the proceedings.

LIV. No cause commenced in any Court, holden under this Act, shall be removed from the said Court into the Supreme Court by any writ or process, unless the debt or damage or value of the property claimed exceeds One Hundred Rupees, and then only by leave of a Judge of the said Supreme Court on proof to his satisfaction that some question of law or equity is likely to arise therein, which, by reason either of its difficulty, novelty or general importance, or of some erroneous course of decision on the same point in the Court of Small Causes may appear to him fit to be tried in the Supreme Court, and upon such terms as to payment of costs, giving security for debt or costs, or otherwise, as he shall think fit.

LV. The Judges of the Court of Small Causes may, in their discretion, reserve any question of law or equity on which they entertain doubts, or which they shall be requested by either party to the suit to reserve, for the opinion of the Judges of the Supreme Court, and shall give judgment contingent upon the opinion of the said Supreme Court on a case which they shall thereupon be entitled to state to the said Court. If only two Judges sit together, and shall differ in opinion, the question, on which they differ shall be so referred.

LVI. The Judges may make orders concerning the time or times, and by what instalments, any debt or damages or costs, for which judgment shall be obtained in the said Court, shall be paid; and all such monies shall be paid into Court, unless the Judges shall otherwise order.

LVII. If there be cross judgments between the parties, execution shall be taken out by that party only, who shall have obtained judgment for the larger sum, and for so much only as shall remain after deducting the smaller sum; and satisfaction for the remainder shall be entered, as well as satisfaction on the judgment for the smaller sum; and, if both sums shall be equal, satisfaction shall be entered upon both judgments.

LVIII. Whenever the Court shall have made an order for the payment of money, the amount shall be recoverable, in case of default or failure of payment thereof forthwith, or at the time or times and in the manner directed, by execution against the body or the goods and chattels of the person against whom such order is made without further notice or order; and the Clerk of the said Court, at the request of the person prosecuting such order, shall issue under the seal

of the Court a writ of execution to one of the Bailiffs of the Court, which shall be his warrant to take the body of such person in execution, or to levy, or cause to be levied, by distress and sale of the goods and chattels of such person such sum of money as shall be so ordered, wheresoever they may be found within the district of the Court, and also the costs of the execution; and all Constables and other Peace Officers within their several jurisdictions shall aid in the execution of every such writ.

LIX. If the Court shall have made any order for payment of any sum of money by instalments, execution upon such order shall not issue until after default in payment of some instalment according to such order; and execution or successive executions may then issue without further notice or order for the whole of the said sum of money and costs then remaining unpaid, or for such portion thereof as the Court shall order, either at the time of making the original order, or at any subsequent time, under the seal of the Court.

LX. Whenever any warrant shall issue for taking in execution the body of any person under this Act, the Bailiffs of the Court shall be empowered, by virtue thereof, to take and convey him to any prison, appointed by the Governor in Council to be the prison of the Court, there to remain for such term as shall be directed by the warrant, not longer than six calendar months, or until he shall sooner perform the order of the Court.

LXI. No person shall be imprisoned twice under the same judgment, nor shall execution against the body and goods issue at the same time under the same judgment.

LXII. Every person suing out a warrant of execution against the body of any other person under this Act shall deposit with the Clerk of the Court, at the time of the issue of the warrant, diet money for one week, after the rate of one anna and half for each day, which shall be paid by the Clerk to the Keeper of the Prison at the time of the execution of the warrant.

LXIII. Notice of the execution of every such warrant shall be forthwith given to the person at whose suit it issued, who shall thereupon deposit with the Keeper of the Prison diet money for the remainder of the month in which the warrant is executed, after the same daily rate, and shall continue thereafter to deposit monthly with the said Keeper, in advance, diet money at the same daily rate, for each month which the debtor is liable to be kept in prison at his suit.

LXIV. All diet money shall be employed for the subsistence of the prisoner; and if, by default of the detaining creditor, such diet money is not paid, the prisoner shall be entitled to his discharge by order of the Court.

LXV. All diet money, which shall be spent in providing subsistence for any prisoner, shall be costs in the cause, and all diet money, which shall not be so spent, shall be repaid to the creditor advancing the same.

LXVI. Whenever any prisoner shall offer good and reasonable security for payment of any debt or damage and costs, either in full or by instalments as the Court shall think reasonable, the Court may order him to be discharged on giving such security.

LXVII. Upon payment of the debt or damage and costs [illegible], the prisoner shall be entitled to be forthwith discharged.

LXVIII. If the debt or damage and costs are not paid, the imprisonment shall not extinguish the liability to pay the same; but all property then belonging to or afterwards acquired by the prisoner shall be liable to be taken in execution after his discharge from prison for satisfaction thereof, or of so much thereof as is not paid, including the diet money actually expended for subsistence of the prisoner.

LXIX. Every Bailiff executing any process of execution issuing out of the said Court against the goods of any person, may, by virtue thereof, seize and take any of the goods of such person, (excepting the necessary wearing apparel and bedding of such person or his family, and the tools and implements of his trade,) and may also seize and take any money or Bank-notes, and any cheques, bills of exchange, promissory notes, bonds, specialties or securities for money belonging to any such person against whom any execution shall have issued as aforesaid.

LXX. The Bailiff shall forthwith deliver any cheques, bills of exchange, promissory notes, bonds, specialties, or other securities for money, which shall have been so seized or taken as aforesaid, to the Clerk or other person appointed by the Judges to receive the same, who shall hold them as a security or securities for the amount directed to be levied by such execution, or so much thereof as shall not have been otherwise levied or raised for the benefit of the plaintiff; and the plaintiff may sue in the name of the defendant, or in the name of any person in whose name the defendant might have sued, for the recovery of the sum or sums secured, or made payable thereby, when the time of payment thereof shall have arrived.

LXXI. If it shall, at any time, appear to the satisfaction of the Court that any defendant is unable, from sickness or other sufficient cause, to pay and discharge the debt or damages recovered against him, or any instalment thereof ordered to be paid as aforesaid, the Judges, in their discretion, may suspend or stay any judgment, order or execution given, made or issued in such action, for such time and on such terms as they shall think fit, and so, from time to time, until it shall appear by the like proof as aforesaid that such temporary cause of disability has ceased.

LXXII. No sale of any goods, which shall be taken in execution as aforesaid shall be made, until after the end of five days at least next following the day on which such goods have been so taken, unless such goods be of a perishable nature, or upon the request, in writing, of the party whose goods have been taken.

LXXIII. Until such sale the goods shall be deposited by the Bailiff by whom they were taken in some fit place, or they may remain in the custody of a fit person approved by the Judges to be put in possession by the Bailiff.

LXXIV. The Judges, from time to time, as they shall think proper, may appoint such and so many persons for keeping possession, and so many of their Bailiffs or other fit persons to be sworn brokers and appraisers for the purpose of selling or valuing any goods, chattels or effects taken in execution under this Act, as shall appear to them to be necessary, and may direct security to be taken from each of them, for such sum and in such manner as they shall think fit, for the faithful performance of their duties, without injury or oppression; and the Judges may dismiss any person, broker or appraiser so appointed.

LXXV. No goods taken in execution under this Act shall be sold for the purpose of satisfying the warrant of execution, except by one of the brokers or appraisers so appointed.

LXXVI. The costs to be demanded or taken for such appraisement and sale shall be One Anna in the Rupee on the produce of the goods sold; and the Judges may apply the sum so raised as costs towards payment of the contingent charges and remuneration of the said brokers and appraisers, in such manner as shall be approved by the Governor in Council.

LXXVII. The Clerk of the Court shall keep an account of all sums received upon such sales, distinguishing the amount paid to the party entitled to the benefit of the execution, and the amount levied and re-

tained as costs, and also of all sums allowed to the brokers and appraisers upon such sales.

LXXVIII. Whenever any defendant against whom judgment shall have been given in the Court of Small Causes, shall go before execution thereof out of the jurisdiction of the Court, the Judge of any Zillah or Town where he shall be found, upon receiving from the plaintiff, either in person or by vakeel, an application in writing setting forth these facts, with a duly authenticated copy of the judgment of the Court, shall execute the said judgment in the manner prescribed by law for execution of his own decrees; unless the defendant shall allege any reasonable cause, why the judgment should not be executed, and shall give security to such amount as the Judge of such Zillah or Town shall deem reasonable, that he will, within such time as shall be allowed him for that purpose, either satisfy the judgment, or produce a duly authenticated copy of an order of the Judges of the Court of Small Causes, discharging their former judgment.

LXXIX. No judgment or execution shall be stayed, delayed or reversed upon or by any writ of error or *supersedeas* thereon, to be sued for the reversing of any judgment given in any Court holden under the provisions of this Act, unless the amount recovered exceeds One Hundred Rupees, and then only after the person suing out such writ shall become bound with two sufficient sureties to be approved by the Clerk of the Court, in treble the sum adjudged to be recovered in the former judgment, to prosecute the said writ with effect, and also to satisfy and pay, (if the writ be not prosecuted, or if the judgment be affirmed), the debt or damages and costs adjudged, and all costs and damages to be awarded for the delay of execution.

LXXX. Upon every warrant of execution issued against the goods and chattels of any person, the Clerk of the Court shall cause to be stated the sum of money and costs adjudged with the sum paid for such warrant; and if the party against whom such execution shall be issued shall, before an actual sale of the goods and chattels, pay or cause to be paid or tendered unto the Clerk of the Court, or to the Bailiff holding the warrant of execution, such sum of money and costs, as aforesaid, or such part thereof as the person entitled thereto shall agree to accept in full of his debt or damages and costs, together with the fees herein directed to be paid, the execution shall be superseded, and the goods and chattels of the said party shall be discharged and set at liberty.

LXXXI. The Clerk of every Court holden under this Act shall cause a record of all summonses, and of all orders, and of all judgments and executions, and returns thereto, and of all fines, and of all other pro-

cedings of the Court, to be fairly entered, from time to time, in a book or books belonging to the Court, which shall be kept at the Office of the Court; and shall be duly authenticated by one or more of the Judges; and such entries in the said book or books or a copy thereof bearing the seal of the Court, and purporting to be signed and certified as a true copy by the Clerk of the Court, shall be admitted in all Courts and places as evidence of such entries, and of the proceeding referred to by such entry or entries, and of the regularity of such proceeding, without any further proof.

LXXXII. The Clerk of every such Court shall, in the month of *March*, in each year, make out a correct list of all sums of money, belonging to suitors in the Court, which shall have been paid into Court, and which shall have remained unclaimed for five years before the first day of the month of *January* then last past, specifying the names of the parties for whom or on whose account, the same were so paid into Court; and a copy of such list shall be put up and remain during Court hours in some conspicuous part of the Court house, and at all times in the Clerk's Office; and all sums of money which shall have been paid into any such Court, to the use of any suitor or suitors thereof, and which shall have remained unclaimed for the period of six years before the passing of this Act, and which are now in the hands of any Commissioner or Officer of such Court, or otherwise held in trust for such suitors, and all further sums of money, which shall hereafter be paid into such Court to the use of any suitor or suitors thereof, shall, if unclaimed for the period of six years after the same shall have been so paid into Court, be applicable as part of the fees receivable on account of the Court, and shall be carried to the same account; and no person shall be entitled to claim any sum which shall have remained unclaimed for six years; but no time during which the person entitled to claim such sum shall have been an infant, or married woman, or of unsound mind, or out of the Territories under the Government of the East India Company, shall be taken into account in estimating the said period of six years.

LXXXIII. If any person shall wilfully insult any Judge, Clerk or Officer of the said Court, for the time being, during his sitting or attendance in Court, or shall wilfully interrupt the proceedings of the Court, or otherwise misbehave in Court, it shall be lawful for any Bailiff or Officer of the Court, with or without the assistance of any other person, by the order of the Judges to take such offender into custody, and detain him until the rising of the Court; and the Judges shall be empowered, if they

shall think fit, by a warrant under their hands, and sealed with the seal of the Court, to commit any such offender to any prison to which they have power to commit offenders under this Act, for any time, not exceeding seven days, or to impose upon any such offender a fine, not exceeding fifty Rupees for every such offence, and in default of payment thereof to commit the offender to any such prison as aforesaid, for any time, not exceeding seven days, unless the said fine be sooner paid, or instead of inflicting summary punishment under this Act may cause the offender to be indicted in the Supreme Court, if the offence be an indictable misdemeanour.

LXXXIV. If any Officer or Bailiff of any Court holden under this Act shall be assaulted while in the execution of his duty, or if any rescue shall be made or attempted to be made of any person arrested, or goods levied under process of the Court, the person so offending shall be liable to a fine, not exceeding One Hundred Rupees, to be recovered by order of the Court, or before a Magistrate as hereinafter provided; and the Bailiff of the Court, or any Peace Officer in any such case, may take the offender into custody, (with or without warrant,) and bring him before such Court, or Magistrate accordingly.

LXXXV. If any Bailiff of the said Court, who shall be employed to execute any warrant of the Court, shall, by neglect, or connivance or omission, lose an opportunity of executing such warrant, then, upon complaint of the party aggrieved by reason of such neglect, connivance or omission, (and the fact alleged being proved to the satisfaction of the Court,) the Judges shall order the Bailiff to pay such damages as it shall appear that the plaintiff has sustained thereby, not exceeding in any case the sum of money for which the said execution is issued, and the Bailiff shall be liable thereto; and upon demand made thereof, and on his refusal so to pay and satisfy the same, payment thereof shall be enforced by such ways and means as are herein provided for enforcing a judgment recovered in the said Court, without prejudice nevertheless to the execution of the original warrant.

LXXXVI. If any Clerk, Bailiff or Officer of the Court, acting under colour or pretence of the process of the said Court, shall be charged with extortion or misconduct, or with not duly paying or accounting for any money levied by him under the authority of this Act, the Judges may inquire into such matter in a summary way, and for that purpose may summon and enforce the attendance of all necessary parties in like manner as the attendance of witnesses in any case may be enforced, and

may make such order thereupon for the repayment of any money extorted or for the due payment of any money so levied as aforesaid, and for the payment of such damages and costs, as they shall think just; and also, if they shall think fit, may impose such fine upon the Clerk, Bailiff or Officer, not exceeding One Hundred Rupees for each offence, as they shall deem adequate; and in default of payment of any money so ordered to be paid, payment of the same may be enforced by such ways and means as are herein provided for enforcing a judgment recovered in the said Court.

LXXXVII. Every Clerk, Bailiff or other Officer employed in putting this Act or any of the powers thereof in execution, who shall wilfully and corruptly exact, take or accept any fee or reward whatsoever, other than his lawful salary, for any thing done or to be done by virtue of this Act, or on any account whatsoever, relative to putting this Act into execution, shall, upon proof thereof before the said Court, and in the case of a Clerk, on confirmation of the finding of the Court by the Governor in Council, be for ever incapable of serving, or being employed under this Act in any office of profit or emolument, and shall also be liable for damages as herein provided.

LXXXVIII. If any claim shall be made to, or in respect of, any goods or chattels taken in execution under the process of any Court holden under this Act, or in respect of the proceeds or value thereof, by any person not being the party against whom such process has issued, the Clerk of the Court, upon application of the Officer charged with the execution of such process, as well before as after any action brought against such Officer, may issue a summons calling before the said Court, as well the party issuing such process as the party making such claim, and thereupon any action, which shall have been brought in the Supreme Court in respect of such claim, shall be stayed, and any Judge of the Supreme Court on proof of the issue of such summons, and that the goods and chattels were so taken in execution, may order the party bringing such action to pay the costs of all proceedings had upon such action after the issue of such summons out of the Court of Small Causes, and the Judges of the Court of Small Causes shall adjudicate upon such claim and make such order between the parties in respect thereof, and of the costs of the proceedings as to them shall seem fit, and such order shall be enforced in like manner as any order made in any suit brought in such Court.

LXXXIX. The powers of Act VII. of 1847 (*a*) to regulate distresses for small rents in Calcutta, shall be extended to the recovery of all arrears of rent not exceeding Five Hundred Rupees, and the Judges of every Court of Small Causes under this Act shall be empowered to exercise within their several jurisdictions the extended powers of

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(*a*) This Act is inserted here for easy reference, as it does not appear in any edition of the Acts relating to the Madras Presidency previously published. It is also slightly modified by Section XC :—

ACT No. VII. OF 1847.

Passed on the 1st of May 1847.

(1) Empowers Commissioners to appoint Bailiffs and Appraisers for the purposes of this Act as well as to suspend or remove them, to fix their salaries and to reward them; provides (2) that upon the affidavit—in form D—of the party entitled to arrears of rent, or, in certain cases, of his attorney, Commissioner may issue warrant—in form A—for levy of such rent, or withhold it; (3) that such part of the goods &c. upon the premises as will cover the amount of rent &c. shall be seized, notice being given to the party in form B; when he may apply for the discharge or suspension of the warrant; (4) that notice of sale shall be given in form E, that sale proceeds shall be paid to Chief Clerk and applied in satisfaction of sums claimed &c. but that defendant may direct the sale to be conducted in particular manner; (5) regulates the costs to be taken,—Schedule C—and their application &c.; (6) enacts that distress for arrears not exceeding 100 Rs. shall be made under this Act, and that any other person, than officer appointed, attempting to levy distress shall be guilty of misdemeanour; and (7) that this Act shall not extend to rent due to Government &c.

An Act to regulate Distresses for Small Rents in Calcutta.

I. It is hereby enacted, that it shall be lawful for the Commissioners of the Court of Commissioners for the Recovery of Small Debts in and for the Settlement of Fort William in Bengal to appoint four or more persons to be Bailiffs and Appraisers for the purposes of this Act, and to fix such remuneration for the services of the said Officers as shall appear to the said Commissioners expedient, and that such persons shall be duly sworn before the said Commissioners, and shall also give security to be approved by the said Commissioners, faithfully to discharge the duties of their office, and that the said Commissioners shall have power to suspend or remove such persons so appointed, provided that it shall be lawful for the said Commissioners to appoint the Bailiffs who may be attached from time to time to the said Court to the office of Distraining Bailiffs and Appraisers for the purposes of this Act, and to award to the said Officers such remuneration in addition to their respective salaries drawn from the said Court as to the said Commissioners shall appear expedient.

II. And it is hereby enacted, that it shall be lawful for any Commissioner of the said Court upon the Affidavit in the Form contained in the Schedule to this Act annexed (marked D) of any party claiming to be entitled to arrears of rent of any House or Premises situate in Calcutta not exceeding the amount of 100 Rupees, or in case of absence of such party from Calcutta, or in case of respectable females who do not appear in public, upon the Affidavit of the Constituted Attorney of such party stating the amount of such arrears and for what time and at what rate the

the said Act; and the said Act shall be construed as if instead of Calcutta and the Settlement of Fort William in Bengal, the limits of the jurisdiction of the Court had been therein mentioned, and the Judges of the Court of Small Causes under this Act instead of the Commis-

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same became due, to issue a warrant under his hand and seal in the Form contained in the Schedule to this Act annexed (marked A) addressed to any one of such Officers directing him to levy the amount of such rent, together with the costs of the said distress in the manner therein mentioned, provided that it shall be lawful for any of the said Commissioners, upon personal examination of the party applying for such warrant, to grant or withhold the same at the discretion of the said Commissioner.

III. And it is hereby enacted, that by virtue of such warrant it shall be lawful for such Officer to seize the whole or such part of the Goods and Chattels upon the said premises as shall be sufficient to cover the amount of the said rent, together with the costs of the said distress, and that he shall thereupon make an Inventory of the Goods and Chattels so seized, and shall give a notice in writing in the Form in the Schedule to this Act annexed (marked B) to the party from whom such rent is claimed to be due, or to any other person upon behalf of such party upon the said Premises that the said Goods and Chattels will be appraised and sold in manner therein mentioned. And that the said Officer shall file in the said Court true copies of the said Inventory and Notice, provided that it shall be lawful for the party from whom such rent is claimed to be due, at any time within five days from such seizure, to apply to any Commissioner of the said Court to discharge or suspend such warrant, and it shall be lawful for such Commissioner to discharge or suspend such warrant accordingly, with or without costs, provided always that it shall be lawful for any of the said Commissioners in his discretion to give reasonable time to such party to pay the said rent.

IV. And it is hereby enacted, that in default of such application, it shall be lawful for any two of such Officers at the expiration of five days from such seizure to appraise the Goods and Chattels so seized, and to give notice in writing in the Form in the Schedule to this Act annexed (marked E) of the sale thereof at such time and place as they shall direct, after an interval of not less than two days, and that they shall file in the said Court a true copy of the said Notice, and that the same shall be sold accordingly, and that the said Officers shall forthwith, after realization of the produce of the said sale, pay over the amount thereof to the Chief Clerk of the said Court, and the amount of such produce shall be applied in satisfaction of the sum claimed to be due, together with the costs of the said distress, and that the surplus, if any, shall be returned to the party from whom the said rent was claimed to be due, provided that it shall be lawful for such party to direct that such sale shall take place in any other manner, such party giving security for any extra costs attending such mode of sale.

V. And it is hereby enacted, that no costs shall be taken or demanded for such distress except those contained in the Schedule to this Act annexed (marked C)

sioners of the Court therein mentioned, and the amount of Five Hundred Rupees instead of One Hundred Rupees, and the forms contained in the Schedule annexed to the said Act shall be altered accordingly, and shall refer to this Act instead of Act VII. 1847.

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and that it shall be lawful for the said Commissioners to apply the sum so raised as costs towards the payment of the contingent charges and remuneration of the said Bailiffs and Appraisers as shall appear to the said Commissioners expedient, and that the Chief Clerk of the said Court shall keep a book in which all sums received as costs upon distresses made under the provisions of this Act, and all sums paid as remuneration to the said Bailiffs and Appraisers, and all contingent charges incurred in respect of such distresses shall be duly entered, and that the Chief Clerk of the said Court shall also enter in the said book all sums realized by sale of the Goods and Chattels distrained and paid over to the landlords under the provisions of this Act.

VI. And it is hereby enacted, that after the passing of this Act no distress shall be levied for arrears of rent amounting to Rupees 100, or less, except under the provisions of this Act, and that any person, except such Officer as appointed, levying or attempting to levy any such distress shall be guilty of a misdemeanour and shall be liable to be punished by fine and imprisonment for the same in addition to any other liability he may have incurred by such trespass.

VII. And it is hereby enacted, that this Act shall not extend to any arrears of rent exceeding 100 Rupees, nor in respect of any House or Premises situate out of Calcutta, nor to any rent due to Government, nor to any seizure except on the Premises in respect of which such rent is claimed.

A.

In the Court of Commissioners for the Recovery of Small Debts in and for the Settlement of Fort William in Bengal.

Form of Warrant.

I hereby direct you to distrain the Goods and Chattels on the Premises of A. B., situate in ——— in the Town of Calcutta, for the sum of ——— Rs., being the amount of ——— months' rent due to C. D., for the same on the ——— day of ——— last according to the provisions of the Act No. VII. of 1847. Dated 1st day of May.

(Signed and Sealed)

To E. F., *Sworn Bailiff and Appraiser.*

B.

In the Court of Commissioners for the Recovery of Small Debts in and for the Settlement of Fort William in Bengal.

Form of Inventory and Notice.

(State particulars of Goods seized.)

Take Notice that I have this day seized the Goods and Chattels contained in the above Inventory for the sum of ——— Rs., being the amount of ——— months'

XC. The affidavit of arrear required by the said Act No. VII, 1847, may, in every case, be made either by the person entitled to such arrear or by his or her lawfully constituted attorney, and a warrant of distress may issue on such affidavit.

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rent due to C. D., at ——— last, and that unless you pay the amount therefore, together with the Costs of this Distress within five days from the date hereof, or obtain an order from one of the Commissioners of the Court of Requests to the contrary, the same will be appraised and sold pursuant to the provisions of the Act No. VII. of 1847.

(Signed) E. F.,
Sworn Bailiff and Appraiser.

To A. B.

C.

In the Court of Commissioners for the Recovery of Small Debts in and for the Settlement of Fort William in Bengal.

Scale of Fees to be levied in Distraints for House Rent.

Sums sued for.	Affidavit & Warrant to Distrain.	Order to Sell.	Commission.	Total.	Remarks.
1 and under 5 Rs.....	4 Annas,...	8 Annas,...	8 Annas,...	R. 1 4	
5 and under 10 Rs.....	8 Annas,...	8 Annas,...	R. 1-0,.....	Rs. 2 0	
10 and under 15 Rs.....	8 Annas,...	8 Annas,...	R. 1-8,.....	„ 2 8	
15 and under 20 Rs.....	8 Annas,...	1 Rupee,...	Rs. 2-0,.....	„ 3 8	
20 and under 25 Rs.....	12 Annas,...	1 Rupee,...	Rs. 2-8,.....	„ 4 4	
25 and under 30 Rs.....	1 Rupee,...	1 Rupee,...	Rs. 3-0,.....	„ 5 0	
30 and under 35 Rs.....	1 Rupee,...	1 Rupee,...	Rs. 3-8,.....	„ 5 8	
35 and under 40 Rs.....	1 Rupee,...	R. 1-8,.....	Rs. 4-0,.....	„ 6 8	
40 and under 45 Rs.....	R. 1-4,.....	Rs. 2-0,.....	Rs. 4-8,.....	„ 7 12	
45 and under 50 Rs.....	R. 1-8,.....	Rs 2-0,.....	Rs. 5-0,.....	„ 8 8	
50 and under 60 Rs.....	Rs. 2-0,.....	Rs. 2-0,.....	Rs. 6-0,.....	„ 10 0	
60 and under 80 Rs.....	Rs. 2-8,.....	Rs. 2-8,.....	Rs. 6-8,.....	„ 11 8	
80 to 100 Rs.....	Rs. 3-0,.....	Rs. 3-0,.....	Rs. 7-0,.....	„ 13 0	

The above scale is intended to include all expences except in Suits where the Tenant disputes the Landlord's claim, and Witnesses have to be subpœna'd, in which case, each Subpœna for sums under Rs. 40 must be paid for at 4 Annas each, and 12 Annas above that amount—and also where Peons were kept in charge of property distrained, 4 Annas per day must be paid per man.

D.

In the Court of Commissioners for the Recovery of Small Debts in and for the Settlement of Fort William in Bengal.

A. B.—— (Plaintiff,)

versus

C. D.—— (Defendant.)

XCI. Where any person shall hold or occupy any house, land, or tenement, of which the value or the rent payable in respect thereof, does not exceed the rate of Five Hundred Rupees by the year, without leave of the owner, or under a lease or agreement which is ended, or duly determined by a legal notice to quit, and such tenant, or, if such tenant do not actually occupy the premises or occupy only a part thereof, any person by whom the same or any part thereof shall be then actually occupied, shall neglect or refuse to quit, and deliver up possession of the premises, or of such part thereof respectively, the owner or his agent may take out a summons from the Court directed to such tenant or occupier, to show by what title he claims to hold or occupy the premises or part thereof.

XCII. If the tenant or occupier shall not thereupon appear at the time and place appointed, and show cause to the contrary, and shall still neglect or refuse to deliver up possession of the premises, or of such part thereof, of which he is then in possession, to the said owner or his agent, such owner or agent may give to the Court proof of the holding, and of the end or other determination of the tenancy, if any had existed, with the time or manner thereof, and of the right by which he claims the possession.

A B., Inhabitant of ——, in the Town of Calcutta, —————— maketh oath and saith, that C. D. —————— who is also an Inhabitant of the Town of Calcutta, is justly indebted to —————— in the sum of Company's Rupees —————— for arrears of rent of the House and Premises No. ——, situated at ————, in the Town of Calcutta, due for —— months, to wit from ——— to ————, at the rate of Co.'s Rs. ——— per mensem.

Sworn before me the ———————— day of ———————— 184————

Commissioner.

E.

In the Court of Commissioners for the Recovery of Small Debts in and for the Settlement of Fort William in Bengal.

Take Notice that we have appraised the Goods and Chattels seized on the ——, under the provisions of the Act No. VII. of 1847, of which a Notice and Inventory had been duly served upon you under date the ————, and that the said Goods and Chattels will be sold on the ———————— at ——— —— pursuant to the provisions of the said Act.

(Signed) E. F,
G. H,
Sworn Bailiffs and Appraisers.

To A B

XCIII. Upon proof of due service of the summons, and of the neglect or refusal of the tenant or occupier, as the case may be, the Judges may issue a warrant under the seal of the Court, to any Bailiff of the Court requiring and authorizing him within a period to be therein named not less than seven, or more than ten clear days from the date of such warrant, to give possession of the premises to such owner or agent, and such warrant shall be a sufficient warrant to the said Bailiff to enter upon the premises with such assistants as he shall deem necessary, and to give possession accordingly: Provided always, that entry upon any such warrant shall not be made on a *Sunday*, *Good-Friday*, or *Christmas-day*, or any other day observed by the Court as a Holiday, or at any time except between the hours of six in the morning and six in the afternoon: Provided also, that nothing herein contained shall be deemed to protect any person by whom any such warrant shall be sued out of the Court of Small Causes from any action which may be brought against him by any such tenant or occupier for such entry and taking possession, where such person had not, at the time of suing out the same as aforesaid, lawful right to the possession of the same premises.

XCIV. Such summons as last aforesaid may be served either personally, or by leave of the Court, upon proof that the tenant or occupier is not to be found within the jurisdiction of the Court, by leaving the same with some person, being in and apparently residing at the place of abode of the person or persons so holding over as aforesaid; or if the place of abode of such person or persons shall either not be known or admission thereto cannot be obtained for serving such summons, by posting the said summons on some conspicuous part of the premises so held over.

XCV. No action or prosecution shall be maintainable against the Judges or against the Clerk of the Court, by whom such warrant as aforesaid shall have been issued, or against any Bailiff or other person by whom such warrant may be executed, or summons affixed, for issuing such warrant, or executing the same respectively, or affixing such summons, by reason that the person by whom the same shall be sued out had not lawful right to the possession of the premises.

XCVI. Where the owner, at the time of applying for such warrant as aforesaid, had lawful right to the possession of the premises, or of the part thereof so held over as aforesaid, neither the said owner nor his agent, nor any other person acting in his behalf, shall be deemed to be a trespasser, by reason merely of any irregularity or informality in the mode

of proceeding for obtaining possession under the authority of this Act; but the party aggrieved may, if he think fit, bring an action on the case for such irregularity or informality, in which the damage, alleged to be sustained thereby, shall be specially laid, and may recover full satisfaction for such special damage with costs of suit: Provided that, if the special damage so laid be not proved, the defendant shall be entitled to a verdict, and that, if proved, but assessed at any sum, not exceeding Ten Rupees, the plaintiff shall recover no more costs than damages, unless the Judge, before whom the trial shall have been holden, shall certify that in his opinion full costs ought to be allowed.

XCVII. In every case in which the person, by whom any such warrant shall be sued out of the Court of Small Causes, had not, at the time of suing out the same, lawful right to the possession of the premises, the suing out of any such warrant, as last aforesaid, shall be deemed a trespass by him against the tenant or occupier of the premises, although no entry shall be made by virtue of the warrant; and in case any such tenant or occupier will become bound with two sufficient Sureties, to be approved by the Clerk of the Court, in such sum as to the Judges shall seem reasonable, regard being had to the value of the premises and to the probable cost of such action, to sue the person by whom such warrant was sued out with effect and without delay, and to pay all the costs of the proceeding in such action, in case a verdict shall pass for the defendant, or the plaintiff shall discontinue or not prosecute his action, or become nonsuit therein, execution upon the warrant shall be stayed until judgment shall have been given in such action of trespass; and, if upon the trial of such action of trespass, judgment be given for the plaintiff, such judgment shall supersede the said warrant.

XCVIII. Recovery of the possession of any such house, land or tenement shall be no bar to the institution of a regular suit, for trying the title thereunto, which may be brought in the Supreme Court, as if this Act had not been passed.

XCIX. Every bond given on the removal of any action out of the Court of Small Causes, or upon staying, delaying or reversing any judgment or execution awarded therein, or the execution of any such warrant of possession as aforesaid, or on moving for a new trial, or to set aside a verdict, judgment or nonsuit, shall be made to the other party to the action, and shall be approved by the Judges and attested under the seal of the Court, and if the bond so taken be forfeited,

or if upon the proceeding for securing which such bond was given, the Judge, before whom such proceeding shall be had, shall not certify upon the record in Court, that the condition of the bond hath been fulfilled, the party to whom the bond shall have been so made may bring an action of debt and recover thereon: Provided always, that the Court in which such action as last aforesaid shall be brought may, by a rule of Court, give such relief to the parties liable upon such bond as may appear to him reasonable, and such rule shall have the nature and effect of a defeasance to such bond.

C. All actions and proceedings, which before the passing of this Act, might have been brought in the Supreme Court, where any Officer of the Court of Small Causes shall be a party, except in respect of any claim to any goods and chattels taken in execution of the process of the Court, or the proceeds or value thereof, may be brought and determined in the Supreme Court, at the election of the party suing or proceeding, as if this Act had not been passed.

CI. If any action shall be commenced after the passing of this Act in the Supreme Court, for any cause other than those lastly herein before specified, for which a summons might have been taken out from a Court holden under this Act, and a verdict shall be found for the plaintiff for a sum less than Five Hundred Rupees, if the said action is founded on contract, or less than One Hundred Rupees, if it is founded on wrong, the plaintiff shall have judgment to recover such sum only, and no costs; and if a verdict shall not be found for the plaintiff the defendant shall be entitled to his costs as between attorney and client, unless in either case the Judge, who shall try the cause, shall certify on the back of the record that, by reason of the difficulty, novelty or general importance of the case, or of some erroneous course of decision on like cases in the Court of Small Causes, the action was fit to be brought in the Supreme Court.

CII. If any person shall bring any suit in the Supreme Court in respect of any grievance committed by the Clerk, Bailiff, or Officer of any Court holden under this Act, under colour or pretence of the process of the said Court, and upon the trial of action, no greater damages shall be found for the plaintiff than the sum of Five Hundred Rupees, no costs shall be awarded to the plaintiff in such action, unless the Judge shall certify in Court, upon the back of the record, that the action was fit to be brought in the Supreme Court.

CIII. All penalties, fines and forfeitures by this Act, inflicted or authorized to be imposed, (the manner of recovering and applying whereof is not hereby otherwise particularly directed,) upon proof before any Jus-

tice of the Peace or Magistrate having jurisdiction where the offender shall reside or be, or the offence shall be committed, either by the confession of the party offending, or by the oath or affirmation of any credible witness, shall be levied, with the costs attending the summons and conviction, by distress and sale of the goods and chattels of the party offending, by warrant under the hand of any such Justice or Magistrate, and the overplus (if any) after such penalties, fines and forfeitures, and the charges of such distress and sale are deducted, shall be returned, upon demand, unto the owner of such goods and chattels.

CIV. If any such penalties, fines and forfeitures respectively, shall not be paid forthwith upon conviction, it shall be lawful for such Justice or Magistrate to order the offender so convicted to be detained in safe custody until return can conveniently be made to such warrant of distress; unless such offender shall give sufficient security to the satisfaction of such Justice or Magistrate for his appearance before him on such day as shall be appointed for the return of such warrant of distress, such day not being more than eight days from the time of taking any such security, which security the Justice or Magistrate shall be empowered to take by way of recognizance or otherwise, as to him shall seem fit.

CV. If upon return of such warrant it shall appear that no sufficient distress can be had thereupon, or in case it shall appear to the satisfaction of Justice or Magistrate, either by confession of the offender or otherwise, that he hath not within the jurisdiction of such Justice or Magistrate, sufficient goods and chattels, whereon to levy all such penalties, forfeitures, costs and charges, the Justice or Magistrate may, at his discretion, without issuing any warrant of distress, commit the offender to the Common Gaol or House of Correction, for any time not exceeding three calendar months, unless such penalties, forfeitures and fines, and all reasonable charges attending the recovery thereof, shall be sooner paid and satisfied.

CVI. The monies arising from any such penalties, forfeitures and fines as aforesaid when paid and levied, shall (if not by this Act directed to be otherwise applied,) be, from time to time, paid to the Clerk of the Court, and shall be applied in like manner as the fees thereof.

CVII. In all cases in which by this Act any penalty or forfeiture is made recoverable before a Justice or Magistrate, he may summon before him the party complained against, and on such summons may hear and determine the matter of such complaint; and, on proof of the offence, may convict the offender and adjudge him to pay the penalty or forfeiture incurred, and proceed to recover the same, although no information in writing shall

have been exhibited before him; and all such proceedings by summons without information in writing shall be as valid and effectual to all intents and purposes, as if an information in writing had been exhibited.

CVIII. In all cases where any conviction shall be had for any offence committed against this Act, the form of conviction may be in the words or to the effect following: (that is to say,) "Be it remem-
"bered that on this day of
"in the year A. B. is convicted
"before a Magistrate for the
" (or before a Judge appointed under Act IX. 1850)
"of having *(state the offence;)* and I *(or we)* the said do
"adjudge the said to forfeit and pay for the same the sum of
" [or to be committed to for the space of]. Given
"under hand ( ) and seal ( ) the day and year
"aforesaid."

CIX. No order, verdict, or judgment or other proceeding, made concerning any of the matters aforesaid, shall be quashed or vacated for want of form.

CX. Where any distress shall be made for any sum of money to be levied by virtue of this Act, the distress itself shall not be deemed unlawful, nor the party making the same be deemed a trespasser, on account of any defect or want of form in the information, summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall the party distraining be deemed a trespasser from the beginning, on account of any irregularity which shall afterwards be committed by the party so distraining, but the person aggrieved by such irregularity may recover full satisfaction for the special damage in an action upon the case.

CXI. All actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act, shall be commenced within three calendar months after the fact committed, and not afterwards, and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action is brought, or if after action brought, a sufficient sum of money shall have been paid into Court, with costs by or on behalf of the defendant.

Schedule of Fees.

Sums not above.	Every Summons or Subpœna.		Warrant.	
Rupees.	Rupees.	Annas.	Rupees.	Annas.
10	0	2	0	2
20	0	4	0	4
50	0	8	0	8
100	1	0	1	0
200	1	4	2	0
300	1	8	3	0
400	1	12	4	0
500	2	0	5	0

ACT No. X. OF 1850.

Passed on the 15th of March 1850.

In anticipation of an improved trade between the Western Coast of India and the Red Sea &c, declares (1) the Port and Settlement of Aden free, and (2) not within the provisions of Act VI of 1848.

An Act to declare Aden a free Port.

Whereas the trade between the Western Coast of India and the Red Sea and places thereunto adjacent will be improved by encouraging the resort of Vessels of all nations to the Port of Aden in Arabia, It is declared and enacted as follows:

I. The Port and Settlement of Aden in Arabia, is a free Port and Settlement: and no duty of Customs is payable there on any Ship or other Vessel, or on any Goods lawfully carried by sea or land to or from the said Port and Settlement.

II. The said Port of Aden shall not be taken to be within the provisions of Act VI. 1848.

ACT No. XI. OF 1850.

Passed on the 15th of March 1850.

(1) Repeals Sec. XIII of Act X of 1841; provides (2) that the Passes granted under Sec. XXIV may be issued to vessels wherever built, belonging to any Native Prince in subordinate alliance &c. with E. I. C. or his subjects; (3) that all those that are owned by British subjects and Native States entitled to registry and employed in coasting voyages &c, may be registered &c; (4) that owners shall pay the fee herein prescribed

for Certificate of Registry, and (5) that this Act shall be construed with Act X of 1841.

An Act to amend Act X. 1841.

For amendment of Act X. 1841, It is enacted as follows:

I. Section XIII of Act X. 1841, is repealed.

II. The Passes which under Section XXIV. of the said Act, may be issued for conferring the privileges and advantages of a British Ship, in certain cases, to any ship or vessel built within the dominions of a Native Prince or State in subordinate alliance with, or having subsidiary treaties with, the East India Company, may, after the passing of this Act, be issued in the like cases, and under the same restriction, to any ship or vessel belonging to any such Native Prince or State, or their subjects, wherever the same may have been built.

III. All ships or vessels, of whatever rig and of whatever tonnage, owned by British Subjects, entitled to registry under Act X. 1841, or owned by such Native Princes or States, or by their subjects entitled to passes under Act X. 1841, as amended by this Act, employed only in coasting voyages, or between any port of the continent of India and the Island of Ceylon, may be registered and obtain passes, and the tonnage may be marked, according to such rules as shall be made from time to time by the Governor or Governor in Council of each Presidency.

IV. The owners of Coasting Vessels, registered under Section III. of this Act, shall pay for each Certificate of Registry,

For a vessel not exceeding the burthen of four tons, one Rupee.

Exceeding four tons and not exceeding twenty tons, five Rupees.

Exceeding twenty tons and not exceeding eighty tons, seven Rupees.

Exceeding eighty tons, for each ton two annas.

Which fees shall be carried to the credit of the Government of the Presidency in which they are levied.

V. This Act shall be construed with and as part of Act X. 1841.

ACT No. XII. OF 1850.

Passed on the 22d of March 1850.

Enacts (1) that every Public Accountant shall give security; (2) that the amount shall be regulated by the authority making the appointment subject to the approval of

Government; (3) defines who is a Public Accountant; (4) provides that the head of the office may proceed as if for an arrear of land revenue in case of defalcation; and (5) that all Regulations &c. in force on that account shall apply to this with the necessary changes in form of procedure; and (6) declares to what extent estates already summarily sold in satisfaction of security bonds are valid.

For avoiding loss by the default of Public Accountants.

For better avoidance of loss through the default of Public Accountants, It is enacted as follows:

I. Every Public Accountant shall give security for the due discharge of the trusts of his office, and for the due account of all moneys which shall come into his possession or controul, by reason of his office.

II. In default of any Act having special reference to the office of any Public Accountant, the security given shall be of such amount and kind, real or personal, or both, and with such sureties, (regard being had to the nature of the office,) as shall be required by any rules made or to be made from time to time, by the authority by which each Public Accountant is appointed to his office, subject to the approval of the Governor or Governor in Council of the Presidency or place.

III. Every person is a Public Accountant within the meaning of this Act, who, by reason of any office held by him in the service of the East India Company is entrusted with the receipt, custody or controul of any moneys or securities for money, or the management of any lands belonging to the East India Company, or as Official Assignee or Trustee, or as Surberaker(a) or in any other official capacity, with the receipt, custody or controul of any moneys or securities for money, or the management of any land, belonging to any other person or persons.

IV. The person or persons at the head of the office to which any Public Accountant belongs may proceed against any such Public Accountant and his Sureties for any loss or defalcation in his accounts, as if the amount thereof were an arrear of land revenue due to Government.

V. All Regulations and Acts now or hereafter to be in force for the recovery of arrears of land revenue due to Government, and for recovery of damages by any person wrongfully proceeded against for

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(a) A Commissary of supplies. The head in the way of business. The Manager of an undivided estate. A Manager appointed to take charge of the lands of *Zemindars* and independent *Talookdars* being minors, or females or lunatics.—*Morley*. The word is also spelled, *Sarbarahkár*, *Sabracar*.

any such arrear, shall apply, with such changes in the forms of procedure as are necessary to make them applicable to the case, to the proceedings against and by such Public Accountant.

VI. All sales of Estates, summarily sold before the passing of this Act, in satisfaction of the security bonds of any Public Accountants within the meaning of this Act, shall be deemed as good and valid, and be as liable to be reviewed and annulled, as if such Estates had been sold under authority of this Act, and no further or otherwise.

ACT No. XIII. OF 1850.

Passed on the 22d *of March* 1850.

(1) Enacts that persons, in the public service, entrusted with money, &c, shall be deemed to have feloniously stolen the same if they have appropriated it to any other purpose than that to which it is applicable; (2) declares who shall be considered as employed in the public service; (3) repeals clauses XCIX, C, CI, CII, CIII, CIV, of 9 George 4th; provides (4) that every clerk or servant stealing his Master's property shall be punished under this Act; and (5) that for embezzling it before it comes into his Master's possession, he shall be deemed to have feloniously stolen it; (6) so shall members of a Trade Corporation, Agents &c., and (7) their sub-agents, servants &c., if they fraudulently apply the property entrusted to them; (8) and so shall certain other persons; (9) that persons convicted, under this Act, shall be punished with transportation or imprisonment with or without hard labor, for not exceeding 7 years; (10) defines what is valuable security; provides (11) that offender may be indicted for any number of offences committed within six months, and that gross deficiency in accounts shall be evidence of offence; (12) how the security may be described in the indictment, and (13) how the offender; (14) when Court upon trial may make amendments in respect to variance; (15) that offender may be tried at the place where he committed the offence or at the place of his custody; (16) that his punishment shall not lessen the liability of his sureties to make good the loss; (17) that every person charged with breach of this Act, but not convicted, shall be liable to fine and in addition, to imprisonment with or without hard labor, for not exceeding one year, if he knowingly, make false accounts &c..

For Punishing Breaches of Trust.

For the punishment of breaches of Trust, It is enacted as follows:

I. Every person employed in the Public Service of Her Majesty, or of the East India Company, and entrusted, by reason of such employment, with the receipt, custody, or control of any chattel, money or valuable security, who shall embezzle the same, or any part thereof, or in any manner fraudulently apply, use, or dispose of the same, or any part thereof for any purpose other than a purpose to which the same is applicable under the trust reposed in him, shall be deemed to have feloniously stolen the same.

II. All Official Trustees, Assignees and Receivers of Money, by virtue of their several offices or appointments, all Justices of the Peace, Coroners and other persons, receiving by virtue of their offices or appointments any fines, forfeitures, penalties or other moneys, on behalf of Her Majesty, or of the East India Company, all Sheriffs, Under Sheriffs, Bailiffs, Officers and other persons employed to levy money in execution of the judgment or order of any Court. or in receiving any taxes or other moneys directed to be levied by any Regulation of the Governor or Governor in Council of any Presidency or place, or by any Act of the Governor General of India in Council, and also all Subordinate Officers and Servants employed in the office or service of any of the persons hereinbefore enumerated, and entrusted with money in the course of such employment, are declared to be persons employed in the public service within the meaning of this Act; but this special enumeration of some of the persons included in the general description of persons in the public service of Her Majesty or the East India Company, shall not be taken to abridge the meaning of that general description.

III The Clauses respectively numbered XCIX, C, CI, CII, CIII, and CIV, in an Act of Parliament passed in the ninth year of the Reign of King George the Fourth, intituled an Act for improving the Administration of Criminal Justice in the East Indies, are repealed, except as to all things done or forborne to be done before the passing of this Act.

IV. Every Clerk or Servant, who shall steal any chattel, money or valuable security, belonging to, or in the possession or power of his master, shall be punishable in the same manner as persons convicted of felonious stealing under this Act.

V. Every Clerk or Servant, or any person employed for the purpose, or in the capacity of a Clerk or Servant, who shall, by virtue of such employment, receive or take into his possession any chattel, money or valuable security, for, or in the name, or on the account of his Master, and who shall fraudulently embezzle the same, or any part thereof, shall be deemed to have feloniously stolen the same from his Master, although such chattel, money or security was not received into the possession of his Master, otherwise than by the actual possession of his Clerk, Servant or other person so employed.

VI. Every Member and Officer of a Trading Corporation or Company, and also every Banker, Merchant, Factor, Broker, Attorney or other Agent, whether he be commonly so employed, or be employed

as an Agent in that instance only, and whether he acts as such Agent gratuitously or otherwise, to whom any chattel, money or valuable security is entrusted for safe custody, or for any special purpose, and whether with or without any authority to sell, negociate, pledge or employ the same, but with an authority limited to some defined purpose as to the application of such money, chattel or valuable security, or of any part thereof, or of the proceeds, or of any part of the proceeds thereof, who shall fraudulently apply, use or dispose of the same or any part of the proceeds thereof, for any purpose other than a purpose for which the same was entrusted to him, shall be deemed to have feloniously stolen the same.

VII. Every Sub-Agent, Clerk or Servant of any such Trading Corporation or Company, or of any Banker, Merchant, Factor, Broker or other Agent as aforesaid, who, knowing the purpose for which such chattel, money or valuable security was entrusted to the Corporation, Company, Person or Persons, by whom he is employed, shall fraudulently apply, use or dispose of the same, for any purpose other than a purpose for which the same was entrusted to his employer or employers, shall be deemed to have feloniously stolen the same, though he were not himself immediately employed or entrusted with the disposition thereof by the person entitled thereto.

VIII. Every person, possessed, or having the receipt, custody or control, of any chattel, money or valuable security, in trust for any other person or persons, who shall embezzle the same or any part thereof, or in any manner fraudulently apply, use or dispose of the same, for his own use or benefit, in breach of the trust reposed in him, shall be deemed to have feloniously stolen the same.

IX. Every person convicted of having feloniously stolen any chattel, money or valuable security under this Act, shall be liable to be transported out of the territories under the Government of the East India Company for life, or to be imprisoned with or without labour for any term not exceeding seven years.

X. Every instrument entitling or shewing the title of any person to any share or interest in any public stock or fund of any Country or State, or in any Stock of any Corporation or Company, or for the transfer of any such share or interest, or for the receipt of any dividend or interest on any such share, or entitling or shewing the title to any deposit in any Bank, and every warrant, order or instrument for the payment of any money on any event, certain or contin-

gent, or for the delivery or receipt of any goods, or merchandize, on any such event, is a valuable security within the meaning of this Act.

XI. Any offender under this Act may be proceeded against on the same charge for any number of distinct acts of embezzlement or fraudulent application, use or disposition as aforesaid, committed by him within six calendar months, from the first to the last of such acts: and proof of a gross deficiency in the accounts of any such Trustee or Public Servant, shall be evidence of the offence charged, until such deficiency is otherwise explained.

XII. If the offence relates to money or to any Bank Note, Bank Post Bill, Banker's Cheque, Bill of Exchange, Promissory Note, Government Paper, or other like security for the payment of money, it shall be enough in the indictment or charge to allege the embezzlement or fraudulent application, use or disposition of money, without specifying any particular coin or [illegible]able security; and such allegation shall, so far as regards the kind [illegible] property, be sustained, if the offender is proved to have embezzled or fraudulently applied, used or disposed of any amount of money or any valuable security, though the particular kind of coin or valuable security, of which such amount was composed, shall not be proved.

XIII. It shall not be necessary, in any proceeding against any offender under this Act, to declare the person to whom the property embezzled or fraudulently applied or disposed of belongs otherwise than hereinafter provided, or to give any other description of it than by stating its general character according to the provisions of the Act; and if the offence be that of embezzlement or fraudulent application, use or disposition, by a person in the public service of the Crown, or of the East India Company, of property entrusted to him by reason of such employment, or part thereof, it shall be enough to state that the defendant was in such service, and that he received the property by reason of such employment and embezzled the same, or part thereof, or fraudulently applied, used or disposed of the same as the case may be; and, if the case be one of fraudulent application, use or disposition by any person not being such public servant but entrusted as aforesaid, it shall be enough to state that such person was entrusted with the property (describing its general character as aforesaid,) and it shall be enough to state shortly the purpose of the trust, and that he fraudulently applied, used or disposed of the same contrary to his duty in that behalf.

XIV. The Court before which any offender is tried under this

Act shall have power upon the trial to make any amendments that may be necessary, by reason of any variance between the statements of the charge and the evidence, either in the description of the property, or of any person, or of any office, appointment or employment, or of the purpose of the trust or otherwise, when in the opinion of the Court the person charged cannot have been misled as to his defence by such imperfect or erroneous statement.

XV. Every offender under this Act may be tried and punished by any Court of competent jurisdiction either in the place where he is in custody, or where he committed the offence.

XVI. The punishment of any offender under this Act shall not be deemed to take away or lessen his liability or the liability of his sureties to make good any loss sustained by Her Majesty or the East India Company, or any other person, or persons by his misbehaviour or breach of trust.

XVII. Every person charged with a felonious breach of trust under this Act, who shall be proved to have knowingly made up or furnished false statements or accounts of the sums of money received or paid by him, or entrusted to his care, or of the goods or balance of money in his custody or control, shall be liable to fine in the discretion of the Court, although no actual embezzlement or fraudulent application, use or disposition of trust, moneys, chattels, or valuable securities is proved against him, and in addition to such fine may be imprisoned, with or without labour, as the Court shall adjudge, for any term not exceeding one year; but no person convicted of felonious breach of trust as aforesaid shall be punished also for making up false accounts in connection with the same breach of trust.

ACT No. XVI. OF 1850.

Passed on the 4th of April 1850.

Recites expediency of empowering Criminal Courts to add the punishment of fine to that already provided for persons convicted of certain offences respecting property, and to apply the same for the benefit of the sufferers; (1) confers this power in certain cases named, the amount of fine not exceeding the apparent loss; and (2) provides its enforcement by distress and sale of offender's goods.

An Act for restitution of the value of Stolen Property.

Whereas it is expedient that the several Criminal Courts within the Territories under the Government of the East India Company be empowered

to add the punishment of fine to the punishments already provided for persons convicted before them of certain offences respecting Property, and to apply the same for the benefit of those who have suffered by such offences, It is declared and enacted as follows :

I. All Criminal Courts within the said Territories may add to the punishment competent to them to inflict upon persons convicted before them of robbery, theft, embezzlement, knowingly receiving stolen goods, cheating or other wrongful appropriation of Property, or of being accessory or privy to any such offence, the punishment of fine, not exceeding the loss appearing to be caused to the several persons, who have suffered by such wrong; and may pay and distribute the proceeds of the said fine or any part thereof, to or for the benefit of the said several persons, according to the discretion of the Court.

II. Payment of every such fine may be enforced by distress and sale under the order of the Court, of the goods of the offender.

ACT No. XVIII. OF 1850.

Passed on the 4th of April 1850.

Enacts that no Judge &c. or person acting under his orders, shall be sued for Judicial acts, whether within his jurisdiction or not, provided he, in good faith, believe himself to have jurisdiction over the act complained of.

An Act for the Protection of Judicial Officers.

For the greater protection of Magistrates and others acting judicially, It is enacted as follows:

I. No Judge, Magistrate, Justice of the Peace, Collector, or other person acting judicially shall be liable to be sued in any Civil Court, for any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction; provided, that he at the time, in good faith, believed himself to have jurisdiction to do or order the act complained of: and no Officer of any Court or other person, bound to execute the lawful warrants or orders of any such Judge, Magistrate, Justice of the Peace, Collector, or other person acting judicially shall be liable to be sued in any Civil Court, for the execution of any warrant or order, which he would be bound to execute, if within the jurisdiction of the person issuing the same.

ACT No. XIX. OF 1850.

Passed on the 11th of April 1850.

Enacts (1) when and for what period a child may be apprenticed; (2) that contract shall be conclusive as to age; (3) that Magistrates or Justice of the Peace (4) as well as Directors &c. of charities may act as guardians; (5) that boy may be bound for sea service to the owner of a trading ship, or (6) to Master Attendant for service in any E. I. C. ship; (7) that the master of ship shall be deemed agent of owner, (8) prescribes the form of the contract (Schedule A.); (9) by whom it shall be signed, (10) where it shall be deposited, and who shall have copies thereof; and that such copies shall be evidence without proof of registering officer's signature; enacts (11) that the terms of service may be changed or the contract determined by endorsement thereon with consent of the parties &c. &c.; (12) that the master of the apprentice may assign him to any other person with his consent &c., and that of the assignee to abide by the contract, he endorsing it as per schedule B &c.; (13) that on complaint of neglect &c., by apprentice, Magistrate may summon the master or agent, and upon proof thereof may cancel the contract and assess a certain sum on his behoof, the same being leviable by distress of goods; (14) but that no contract shall be cancelled or for moderate chastisement for misbehaviour, nor shall its cancelment bar a criminal action against the master, (15) provides how, on complaint of the master, apprentice shall be punished for ill-behaviour or absconding; (16) when the contract may be cancelled on his demand; (17) and how the money recovered on behalf of the apprentice may be applied; (18) specifies the time within which complaints shall be made; provides (19) that contract shall be determined on death of master and a proportion of the premium returned, unless executors &c., continue the business and offer in writing to keep the apprentice, (20) that this shall be certified on the contract; (21) that apprentice shall be entitled to three months' maintenance on death of master if he continue in service; (22) that insolvency of master shall determine the contract, and the premium, if any, be claimed as debt against the estate; (23) that for purposes of this Act British subjects &c., shall be amenable to jurisdiction of Courts &c, of E. I. C.; (24) and that an appeal shall be to Sessions Court; (25) interprets certain words.

Concerning the binding of Apprentices.

For better enabling children, and especially orphans and poor children brought up by public charity, to learn trades, crafts and employments, by which, when they come to full age, they may gain a livelihood, It is enacted as follows:

I. Any child, above the age of ten, and under the age of eighteen years, may be bound apprentice by his or her father or guardian to learn any fit trade, craft or employment, for such term as is set forth in the contract of apprenticeship, not exceeding seven years, so that it be not prolonged beyond the time when such child shall be of the full age of

twenty-one years, or in the case of a female, beyond the time of her marriage.

II. The age set forth in the contract shall be evidence of the age of the child, in all questions which arise as to the right of the master to the continuance of the service.

III. Any Magistrate or Justice of the Peace may act with all the powers of a guardian under this Act, on behalf of any orphan, or poor child abandoned by its parents, or of any child convicted before him, or any other Magistrate, of vagrancy, or the commission of any petty offence.

IV. An orphan or poor child, brought up by any public charity, may be bound apprentice by the Governors, Directors or Managers thereof, as his or her guardians for this purpose.

V. Any such boy may be bound as an apprentice in the sea service to any of Her Majesty's subjects, being the owner of any registered ship belonging to and trading from any port in the territories under the Government of the East India Company, which has been declared to be a registering port under Act X. 1841, to be employed in any such ship the property of such person, commanded by a British subject, and, while so employed, to be taught the craft and duty of a seaman.

VI. Any such boy may be bound in like manner for sea service in any ship of the East India Company belonging to any such port, commanded by a British subject, in which case the contract shall be made with the Master Attendant at such port, or any officer appointed to represent the East India Company in this behalf, who shall appoint the ship in which such apprentice is to serve from time to time.

VII. The Master or Commander of any ship in which an apprentice bound to the sea service shall be appointed to serve by the party to whom he is bound, shall be deemed the agent of such party for the purpose of this Act.

VIII. Every contract of apprenticeship shall be in writing, according to the form given in the Schedule (A.) annexed to this Act, or to the like effect, which shall set forth the conditions agreed upon, particularly specifying the age of the apprentice, the term for which he is bound, and what he is to be taught.

IX. Every such contract shall be signed by the person to whom the apprentice is bound, and by the person by whom he is bound, and by the

apprentice, when he is of the age of fourteen years or more at the time of binding; but, when the apprentice is bound by the Governors, Directors or Managers of a Public Charity, the signature of two of them, or of their Secretary or Officer, shall be sufficient on behalf of the persons binding the apprentice.

X. No such contract shall be valid unless it be executed in the manner aforesaid, nor until it has been deposited in the office of the Chief Magistrate of the place or district where it has been executed, or if the apprentice is bound to the sea service, in the office of the person appointed under Act X. 1841, to make registry of ships at the port where the apprentice is to begin his service; and the person in whose office any such contract is deposited shall give to each of the parties a copy thereof, certified under his hand, which certified copies shall be received as evidence of the contract, without formal proof of the handwriting of the Magistrate or Registering Officer.

XI. The terms of service may be changed at any time during the apprenticeship, or the contract may be determined, with the consent of both parties to the contract or their personal representatives, and with the consent of the apprentice, if he is above the age of fourteen years; provided, that the changes agreed to or the termination of the contract shall be expressed in writing on the original contract, with the signature of the proper parties according to Section VIII. of this Act; and the Magistrate or Registering Officer shall thereupon make under his hand corresponding endorsements on the office copies, which shall be brought to him at the same time for that purpose.

XII. The master of any apprentice bound under this Act may, with the consent of the person by whom he was bound, and with the consent of the apprentice, if he is above the age of fourteen years, assign such apprentice to any other person, who is willing to take him for the residue of his apprenticeship, and subject to the conditions thereof; provided that such person shall, by endorsement under his own hand on the contract, declare his acceptance of such apprentice, and acknowledge himself bound by the agreements and covenants therein mentioned, to be performed on the part of the master, and that the consent of the other parties aforesaid shall be expressed in writing on the same, and signed by them respectively: And every such assignment shall be certified on the office copies of the contract under the hand of the Magistrate or Registering Officer according to the form given in Schedule (B.) annexed to this Act.

XIII. Upon complaint made to any Magistrate in the said territo-

ries by or on behalf of any apprentice bound under this Act, of refusal or neglect to provide for him, or to teach him according to the contract of apprenticeship, or of cruelty, or other ill-treatment by his master, or by the agent under whom he shall have been placed by his master, the Magistrate may summon the master or his agent, as the case may be, if he shall be within his jurisdiction, to appear before him at a reasonable time, to be stated in the summons, to answer the complaint; and at such time, whether the master or his agent be present or not, (service of the summons being proved,) may examine into the matter of the complaint; and, upon proof thereof, may cancel the contract of apprenticeship, and assess upon the offender, whether he shall be the master or his agent, a reasonable sum for behoof of the apprentice, not exceeding four times the amount of the premium paid upon the binding, or if no premium, or a less premium than Fifty Rupees was paid, not exceeding Two Hundred Rupees; and, if the offender shall not pay the sum so assessed, may levy the same by distress and sale of his goods and chattels, and if the offender shall not be the master but his agent, by distress and sale of the goods and chattels of the master also.

XIV. No contract of apprenticeship shall be cancelled, nor shall any master or his agent be liable to any criminal proceeding, on account of such moderate chastisement for misbehaviour, given to any apprentice by his master or the agent of his master, as may lawfully be given by a father to his child; and the provision for enabling the contract of apprenticeship to be cancelled shall not bar any criminal proceeding against any master or his agent for an assault or other offence committed against his apprentice, for which he would be liable to be punished, had it been against his child; whether or not any proceedings be taken for cancelling the contract of apprenticeship.

XV. Upon complaint made to any Magistrate, by or on behalf of the master of any apprentice bound to him under this Act, of any ill-behaviour of such apprentice, or if such apprentice shall have absconded, the Magistrate may issue his warrant for apprehending such apprentice, and may hear and determine the complaint, and punish the offender by an order for keeping the offender if a boy in confinement in any debtor's prison or other suitable place, not being a criminal gaol, for any time not exceeding one month, of which one week may be in solitary confinement, during which time such allowance shall be made for his subsistence by the master or his agent as the Magistrate shall order; and, if the offender be a boy of not more than fourteen years of age, may order him to be privately whipped:

or, if the offender be a girl, or in the case of any boy, the Magistrate deem any such punishment unfit, he may pass an order empowering the master of the apprentice or his agent to keep the offender in close confinement in his own house, or on board the vessel to which he belongs, upon bread and water, or such other plain food as may be given without injury to the health of the apprentice, for a period not exceeding one month.

XVI. Upon complaint of wilful and repeated ill-behaviour on the part of the apprentice, and on the demand of the master, the Magistrate may order the contract of apprenticeship to be cancelled, whether or not the charge is proved: but only with the consent of the apprentice and of his father or guardian, if the charge is not proved: and such cancelling shall be with or without refund of the whole or part of any premium that may have been paid to the master on binding such apprentice, as to the Magistrate seems fit on consideration of the case; and all sums so refunded shall be applied under the direction of the Magistrate for behoof of the apprentice.

XVII. The Magistrate may order any sum recovered for behoof of the apprentice on cancelling the contract to be either laid out in binding him to another master, or otherwise for his benefit, or to be paid to the person by whom any premium was paid when he was bound apprentice.

XVIII. No Magistrate shall entertain a complaint on the part of a master against an apprentice under this Act, unless it be brought within one month after the cause of complaint arose; or, if the cause of complaint arose on board ship during a voyage, within one month after the arrival thereof at a port or place in the said territories: and no Magistrate shall entertain a complaint on the part of an apprentice against his master or the agent of his master under this Act, unless it be brought within three months after the cause of complaint arose; or if the cause of complaint arose on board ship during a voyage within three months after the arrival thereof, at a port or place in the said territories.

XIX. If the master of any apprentice shall die before the end of the apprenticeship, the contract of apprenticeship shall be thereby determined; and a proportionate part, corresponding to the unexpired portion of the term, of any premium, which shall have been paid to such master on the binding of the apprentice to him, shall be returned by the executors or administrators out of the estate of the deceased to the person or persons who shall have paid the same; unless the executors or administrators of the deceased master shall continue the business in which such apprentice shall have been employed, and shall,

within three months from the death of the late master, make offer in writing to keep the apprentice on the terms of the original contract; in which case the estate of the deceased shall be discharged from all liabilities on account of such premium.

XX. If such offer to keep the apprentice shall be made as aforesaid, the same shall be fully expressed and certified by the executors and administrators on the original contract of apprenticeship; and also on the office copies thereof, by the Magistrate or Registering officer; and the apprentice shall be bound to the executors or administrators so keeping him for the remaining term of his apprenticeship.

XXI. Any apprentice bound under this Act, whose master shall die during the apprenticeship, shall be entitled to maintenance for three months from and after the death of his master, out of the assets left by him; provided that during such three months such apprentice shall continue to live with, and serve as an apprentice, the executors or administrators of such master, or such person as they shall appoint.

XXII. The apprentice of any person against whom a Commission of Bankruptcy shall be issued, or who shall be adjudged to have committed an act of insolvency, during the apprenticeship, shall be discharged from all obligation under the contract of apprenticeship; and, if any premium was paid on binding him as an apprentice, he or the person by whom he was bound shall be entitled to claim the amount thereof, as a debt against the estate of the Bankrupt or Insolvent.

XXIII. For the purposes of this Act all British subjects, wherever or of whatever parents born, as well as other persons in the territories under the government of the East India Company, without the Towns of Calcutta and Madras, and the Town and Island of Bombay, shall be amenable to the jurisdiction of the Courts and Magistrates of the East India Company.

XXIV. An appeal shall lie from any order passed by any Magistrate without the said Towns and Island to the Court of Session to which such Magistrate is subordinate, provided the appeal is made within one month from the date of the order.

XXV. In this Act the words "master," "owner," "person" and the pronoun "he" shall be understood to include several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless there is something in the context repugnant to such construction.

SCHEDULE A.

FORM OF AGREEMENT.

This agreement made the day of in the year between A. B., of and C. D., of witnesseth that the said A. B. doth this day bind E. F., a boy (or girl) of the age of years completed, son (or daughter) of the said A. B. (or otherwise describing the relation in which A. B. and E. F. stand,) to dwell with and serve the said C. D., as an apprentice, from this day forth for years, (in the case of a girl add, or until the time of her marriage, which shall first happen,) during all which term the said apprentice shall duly and faithfully serve the said C. D., according to his (or her) skill and ability in all lawful business, and demean and behave himself (or herself) honestly, orderly, and obediently, in all things toward the said C. D. and his (or her) family. And the said C. D. for himself (or herself) and his (or her) executors and administrators in consideration (of the premium or sum of paid by the said A. B. to the said C. D., the receipt whereof the said C. D. hereby acknowledges, and) of the faithful service of the said E. F., doth covenant and agree with the said A. B., his (or her) executors and administrators, that he (or she) will teach or cause to be taught to the said E. F., in the best way and manner that he (or she) can, the trade (craft or employment) of a during the said term; and will also, during the said term, find and allow unto the said apprentice good, wholesome and sufficient food, clothes, lodging, washing, and all other things necessary fit and reasonable for an apprentice: (and further, *here insert any special covenants.*)

If there is no premium the words between brackets may be omitted.

In witness whereof the parties have hereunto set their hands and Seals, the day and year above written.

A. B. (L. S.)

C. D. (L. S.)

SCHEDULE B.

Form of Order of Assignment.

(To be endorsed on the Agreement.)

Be it known to all men that on the day of in the year personally appeared before G. H., Magistrate of C. D., of with E F., his (or her) apprentice, and J. K., of and desired that the Agreement of Apprenticeship, whereby the said E. F., was bound to the said C. D., might be assigned and made over to the said J. K.; and the said G. H., having satisfied himself, by personal examination of the said E. F., and by other lawful ways and means, that such assignment is for the benefit of the said E. F., and is made with the consent of (the said E. F., and of) all persons whose consent thereunto by law is required, doth allow such assignment: and the contract of apprenticeship whereby the said E. F., was on the day of in the year bound to the said C. D., as an apprentice to learn the trade (craft or employment) of a shall henceforth endure, unto the end of the said term, as if the said J. K. had been originally party to the said deed, and had executed the same, in the place and stead of the said C. D., and shall be bound, for himself (or herself) his (or her) executors or administrators, to fulfil the covenants by the said C. D., to be performed, and the said E. F. shall henceforth be bound unto the said J. K., in like manner as he (or she) was by the said agreement bound unto the said C. D.

If E F is not above the age of fourteen years, the words between brackets may be omitted.

C. D. E. F. J. K.

In witness whereof the said C. D., E. F. and J. K. have hereunto set their hands before me the day and year above written.

G. H., Magistrate.

ACT No. XXI of 1850.

Passed on the 11th of April 1850.

Recites expediency of extending the principle of Section IX. Regulation VII. 1832, Bengal Code, and enacts (1) that so much of any law or usage as inflicts forfeiture of rights or property &c. by reason of renunciation of religion &c. shall cease to be enforced.

An Act for extending the principle of Section IX. Regulation VII. 1832, of the Bengal Code, throughout the Territories subject to the Government of the East India Company.

Whereas it is enacted by Section IX. Regulation VII. 1832, of the

Bengal Code, that "whenever in any civil suit the parties to such suit may be of different persuasions, when one party shall be of the Hindoo and the other of the Mahommedan persuasion, or where one or more of the parties to the suit shall not be either of the Mahommedan or Hindoo persuasions, the laws of those religions shall not be permitted to operate to deprive such party or parties of any property to which, but for the operation of such laws, they would have been entitled;" and whereas it will be beneficial to extend the principle of that enactment throughout the Territories subject to the Government of the East India Company, It is enacted as follows:

I. So much of any law or usage now in force, within the territories subject to the Government of the East India Company, as inflicts on any person forfeiture of rights or property, or may be held in any way to impair or affect any right of inheritance, by reason of his or her renouncing, or having been excluded from the communion of any religion, or being deprived of caste, shall cease to be enforced as Law in the Courts of the East India Company, and in the Courts established by Royal Charter within the said territories.

ACT No. XXVI OF 1850.

Passed on the 21st of June 1850.

(1) Repeals Act X of 1842; enacts (2) that Government may order the enforcement of this Act in Towns where the inhabitants wish it; (3) that notice of such wish shall be given in the *Gazette* and proclamation made with a view to ascertain their sentiments, and (4) that the result be intimated in the *Gazette* by a final order of Government; (5) that the Act shall come into force for the purposes mentioned in such order which shall be conclusive as to a compliance with the provisions of this Act; (6) that Government shall appoint and remove Commissioners, and authorize them to make Rules &c.; (7) that such Rules shall contain, among other things, certain specified provisions; (8) that Commissioners may make contracts, apply taxes &c.; (9) but shall not be personally liable, except for money collected and misapplied either knowingly or through gross neglect &c.; (10) that Act II of 1839 shall be applied for recovery of arrears of taxes and penalties; (11) that no rate on property or assessment shall be invalid for defect of form &c.; (12) that moveable property found on the premises may be seized and sold by warrant in payment of an arrear; (13) that Commissioners shall submit a yearly account on or before 1st April; (14) that Government may suspend operation of this Act, and examine into conduct of Commissioners.

An Act to enable improvements to be made in Towns.

Whereas Act X. 1842, was passed for enabling the inhabitants of any place of public resort or residence, under the Presidency of Fort William, not within the Town of Calcutta, to make better provision for purposes

connected with public health and convenience, but the said Act has proved ineffectual for the purpose, and it is expedient to amend the provisions thereof, and to extend the like powers to the inhabitants of Towns in the other Presidencies under the Government of the East India Company, It is enacted as follows:

I. Act. X. 1842, is repealed.

II. If it shall appear to the Governor or Governor in Council, or Lieutenant Governor, of any Presidency or Place within the Territories under the Government of the East India Company, that the inhabitants of any Town or Suburb, not within the Town of Calcutta, Madras, or Bombay, are desirous of making better provision for making, repairing, cleaning, lighting, or watching any public streets, roads, drains, or tanks, or for the prevention of nuisances, or for improving the said Town or Suburb in any other manner, the said Governor or Governor in Council, or Lieutenant Governor, may order this Act to be put in force within such Town or Suburb.

III. Whenever any application shall be made to the Government for putting this Act in force in any Town or Suburb, notice thereof shall be given in the *Government Gazette* of the Presidency, or place, and also by proclamation within such Town or Suburb, setting forth the purposes of the application, and giving reasonable time for all inhabitants of such Town or Suburb, who are minded to declare themselves for or against the adoption of this Act therein, for such purposes or any of them.

IV. The Governor or Governor in Council, or Lieutenant Governor, shall take all such declarations into due consideration, and after the time allowed for receiving the same, shall make a final order, which shall be published in the *Government Gazette*, and also notified by proclamation within such Town or Suburb, to the effect that the application appears, or does not appear, to be according to the wishes of the inhabitants, either wholly, or in respect to one or more of the purposes in respect of which it is made; and if the whole or any part of it shall appear to be according to the wishes of the inhabitants, then that this Act shall be thenceforth in force in such Town or Suburb, for such purposes only as shall be mentioned in the order.

V. Whenever any such order shall be made and published as aforesaid, this Act shall come into force within the said Town or Suburb, for such purposes as are mentioned in the Order, and the making and publication of the said Order shall be conclusive evidence that the provi-

sions of this Act have been complied with, and that it is thenceforth in force within the said Town or Suburb, for such purposes as are mentioned in the Order.

VI. Whenever this Act shall come into force in any Town or Suburb, the Governor or Governor in Council, or Lieutenant Governor, shall appoint the Magistrate and such number of the inhabitants thereof as to him shall appear necessary, to be Commissioners for putting the Act in force, and shall give authority to them to prepare Rules for more effectually accomplishing the purposes for which they are appointed; which Rules, when approved by the Governor or Governor in Council, or Lieutenant Governor, shall be of the same force within the said Town or Suburb, until altered or rescinded as hereinafter provided, as if they were inserted in this Act. And the said Governor or Governor in Council, or Lieutenant Governor, may remove any of the Commissioners and appoint others, and may fill up vacancies occurring among the Commissioners in such manner as may seem to him fit.

VII. The rules to be prepared by the said Commissioners shall provide, among other things, for those following, that is to say:

1. The appointment and management of all necessary Officers and Servants of the Commissioners, and the salaries to be allowed to them.

2. The definition of the persons or property within the Town or Suburb to be taxed for raising the monies necessary for the purposes of this Act, whether by House Assessment or Town Duties or otherwise, the amount or rate of the taxes to be imposed, the manner of raising and collecting them, and ensuring the safety and due application of them when collected.

3. The manner in which from time to time the Rules in force are to be amended or rescinded, and new Rules are to be made, with the approval in every case of the Governor or Governor in Council, or Lieutenant Governor.

4. The definition and prohibition of nuisances within the Town or Suburb.

5. The imposition of reasonable penalties for breach of any Rule made by the Commissioners, not exceeding Fifty Rupees, or in the case of continuing nuisance, not exceeding Five Rupees for every day that such nuisance is continued.

VIII. The Commissioners appointed from time to time shall have full power to make all necessary contracts, for the purposes of this Act,

and apply the taxes raised as aforesaid in the necessary works, and in payment of their Officers and Servants, and in the other expenses incident to the execution of this Act within the said Town or Suburb.

IX. No Commissioner shall be personally liable for any contract made by the Commissioners on behalf of the inhabitants of such Town or Suburb; but every Commissioner shall be liable for any misapplication of the monies collected, to which he shall have been knowingly party or privy, or which shall have happened through gross neglect of his duty, and shall be liable to be sued for the same as for money due to, and at the suit of the East India Company.

X. The powers of Act II. 1839, for the recovery of fines, shall be applied for the recovery of all arrears of taxes and penalties under this Act; and every Magistrate shall put in force the powers of the said Act II. 1839, for that purpose, whenever thereunto required by the Commissioners, or any of their Officers deputed by them for the purposes of enforcing payment of arrears of taxes imposed under this Act.

XI. No rate on property made under this Act shall be invalid for defect of form; and it shall be enough in any such rate on property, or any Assessment of value for the purpose of making such rate, if the property rated or assessed shall be so described as to be generally known; and it shall not be necessary to name the owner or occupier thereof.

XII. All moveable property found in any house or building, or upon any land assessed under this Act, may be seized and sold by warrant of a Magistrate for payment of any arrear of tax laid on such house, building or land under this Act.

XIII. All Commissioners acting in execution of this Act shall, on or before the last day of April in every year, make up and send to the Governor or Governor in Council, or Lieutenant Governor, an account of all works executed by them, and of all sums received and spent by them in the foregoing year, in such form and with such vouchers as the Governor or Governor in Council, or Lieutenant Governor, shall from time to time order.

XIV. The Governor or Governor in Council, or Lieutenant Governor may, at any time, suspend the operation of this Act in any Town or Suburb, and appoint any person or persons to examine and report upon the behaviour of the Commissioners, or any of them, or their officers in the execution of this Act.

ACT No. XXVII. OF 1850.

Passed on the 21st of June 1850.

Enacts (1) that a Register Office shall be established at Madras &c.; (2) that there shall be for every office, a Registrar, Clerks &c., subject to certain regulations; and (3) that Registrar shall give security bond for the due discharge of duty; (4) that every seaman shall register himself and answer the prescribed questions (Schedule A); and (5) that thereon the Registrar shall be bound to register him; (6) prescribes what the Register Ticket shall contain, what fee shall be paid &c.; and (7) that in case of loss, a new one shall be given on payment of fee &c.; (8) that when a seaman is sentenced to imprisonment, his ticket shall be delivered to Gaoler, and when to death or transportation it shall be returned to Registrar; and (9) cancelled by him, that he shall advertise &c., such cancelment and renewal; (10) that master of a vessel shall not engage an unregistered seaman, that he shall keep the ticket of the seaman employed by him until the end of his service, and be liable to penalty for a breach of this Act; (11) that seaman falsely replying to questions shall be subject to penalty; (12) and so shall persons wilfully altering &c., a ticket; (13) that any person possessed of a ticket not issued to him, shall send it to the Registrar and in default be liable to a penalty; (14) that a seaman tendering a ticket not issued to him &c., shall forfeit his wages &c.; (15) that penalties may be recovered under Act II, of 1839; (16) that fees shall be applied to expenses of this Act, and that a duty be levied on vessels of a certain class.

An Act for the registry of Merchant Seamen.

Whereas it is expedient to form a register of Merchant Seamen, It is enacted as follows :

I. A General Register Office for Merchant Seamen shall be established, at each of the ports of Calcutta, Madras and Bombay, and at such other ports as the Governor General of India in Council shall hereafter deem necessary.

II. For every such Office there shall be a Registrar, with such Assistants, Clerks and Servants, at such salaries and allowances, and subject to such regulations, as shall be, from time to time, directed, with the approval of the Governor General of India in Council, by the Governor, or Governor in Council, of the Presidency or place where the Office is established.

III. Each Registrar, before entering on the duties of his Office, shall, with two Sureties, execute a joint and several bond to the East India Company, according to such form as shall be, from time to time, approved by the Governor General of India in Council, conditional for the faithful performances of his duty, and for the due application and account of all monies that shall come to him, as such Registrar, under

such amount of penalty as shall be from time to time fixed by the Governor, or Governor in Council of the Presidency or Place.

IV. Every Person not having a Register Ticket from any port in the United Kingdom of Great Britain and Ireland, who intends to serve, (otherwise than as Master or Surgeon,) on board of any vessel navigated from a Port within the territories under the Government of the East India Company, and registered as a British Vessel under the Statutes of Parliament and Acts of the Governor General of India in Council, in force, for the time being, for the registry of British Vessels, shall be bound to appear at one of the said Register Offices, for the purpose of procuring himself to be registered, and shall be bound to answer truly, to the best of his ability and knowledge, the several questions set forth in the Schedule (A) annexed to this Act, and such other questions as shall be, from time to time, directed by the Governor General of India in Council, and until so registered shall not be allowed, after the First day of August 1850 to serve in any capacity, (other than Master or Surgeon,) on board of any such registered vessel.

V. The Registrar shall be bound to register every Seaman, who shall appear at his office for that purpose, and truly answer the said questions to the best of his ability and knowledge.

VI. The Registrar shall give to every Seaman whom he shall register a Register Ticket, containing as accurate a description as may be, of such Seaman, in such form as shall be, from time to time, approved by the Governor General of India in Council; for which he shall be entitled to take such Fee, not exceeding One Rupee, as shall be, from time to time, allowed by the Governor or Governor in Council; and shall keep recorded in his office a duplicate of every such Register Ticket. The Registrar shall ascertain to the best of his ability, and specify on the Register Ticket, the class or rating of Seafaring persons to which each registered Seaman appears to him to belong; and, from time to time, shall note on any Ticket produced to him for that purpose any superior rating to which the holder of the Ticket appears at that time to be entitled.

VII. Whenever any Seaman shall lose his Register Ticket, he shall apply personally to one of the said Registrars, and shall be bound to answer truly, to the best of his ability and knowledge, all questions which the Registrar, or one of his Assistants shall put to him, touching the time and manner of the loss; and if it shall appear that no fraud has been committed or intended, the Registrar shall furnish another

Ticket to him, upon payment of such Fee, not exceeding Five Rupees, beside the common Fee for the issue of a Register Ticket, as the Registrar shall think fit, under the instructions to be issued to him by the Governor or Governor in Council, having regard to the time and manner of the loss of the former Ticket.

VIII. Whenever any registered Seaman shall be committed to prison, or to any house of correction, the Court or Justice of the Peace shall cause his Register Ticket to be delivered to the keeper of such prison or house of correction, who shall keep it during the term of the Seaman's imprisonment, and at the end of the imprisonment give it to him again; and, whenever any registered Seaman shall be sentenced to death or transportation, the person having him in custody shall send his Register Ticket to the office of the Registrar by whom it was issued.

IX. The Registrar shall cancel every Register Ticket, which shall come again into his possession; and, from time to time, shall make out lists, shewing the number and name upon every Ticket, cancelled during the twelve months then last past, and of every Ticket, which shall have been represented to him to have been lost, and in respect of which he shall have issued another Ticket during the same twelve months; and shall cause such lists to be published in the *Gazette*, in the English and vernacular language of the port, and shall also send them to the Collector of Customs and principal Officer of Police at such Towns or Ports as shall be directed by the Governor or Governor in Council, to be by them respectively exhibited in some conspicuous part of the Custom House and Police Office; and copies of such lists shall be sent to the Master Attendant at every such port, and shall be delivered to any Master or Owner of a registered Vessel on application, and on payment of a Fee of One Rupee.

X. The Master of any such Vessel shall not at any port in the said Territories, after the said First day of August, engage or employ, for the purpose of going to sea in his Vessel, any unregistered Seaman, or any Seaman having a cancelled Register Ticket; and shall cause to be delivered to him the Register Ticket of every Seaman, whom he shall so engage at any such port, after the said First day of August, before putting to sea, which Ticket the Master shall keep safely (unless in the cases herein mentioned) until the end of the service of such Seaman with him, and shall then give it back to the Seaman to whom it belongs: and every Master of a Vessel, who shall wilfully offend against this enactment, shall be liable to a penalty, not exceeding One Hundred Rupees, for each Seaman so unlawfully engaged or employed.

XI. Every person applying for a Register Ticket, who shall wilfully give a false answer to any question, which the Registrar or his Assistant is entitled to ask of him, or wilfully make any false statement before the Registrar or his Assistant as to the loss of any Register Ticket, shall be liable to a penalty, not exceeding Fifty Rupees.

XII. Every person, who shall wilfully alter, deface or destroy any Register Ticket, or counterfeit any such Register Ticket, or transfer or traffic in any such Ticket, issued or purporting to be issued under this Act, shall be liable to a penalty, not exceeding One Hundred Rupees.

XIII. Every person, who shall become possessed of any Register Ticket, other than that lawfully issued to him, (except Master of Vessels and others directed to keep any such Tickets by this Act,) either by the death of the Seaman to whom it belonged or otherwise, shall forthwith send it to the Registrar of the port whence it was issued, and in default of so doing, shall be liable to a penalty, not exceeding One Hundred Rupees.

XIV. Every Seaman, tendering to the Master or Owner of any Vessel a cancelled Register Ticket, or any Ticket not lawfully issued to him, shall forfeit to the Owner all wages accruing to him during the service for which he shall have agreed.

XV. All penalties directed by this Act may be imposed on summary conviction before a Magistrate or Justice of the Peace, and may be recovered with costs, as if they were imposed by a Magistrate under Act II. 1839.

XVI. The Fees received by the Registrar shall be applied toward defraying the expenses of this Act; besides which, a yearly duty of One Anna per ton shall be levied for the same purpose on all Vessels of the burden of one hundred and fifty tons and upwards, navigated to or from the ports within the Territories under the Government of the East India Company; and the production of a certificate of payment at one port of Registry shall free the same Vessel at all others during the current year, to be reckoned from the First day of January to the last day of December.

SCHEDULE A.

1. What is your name and surname?
2. What is your Father's name, and usual dwelling place?
3. Have you been registered before?

4. Where were you born?

5. When were you born?

6. When did you first go to sea?

7. In what capacity did you first go?

8. In what capacity have you since served?

9. Have you served in the Royal or Indian Navy? or in the Marine of the East India Company?

10. If you have, how long? and in what Ships? and in what capacity?

11. Have you been in Foreign Service?

12. If you have, how long? and in what capacity? and under what Flag?

13. How have you been generally employed at sea?

14. Where do you usually live when unemployed?

SCHEDULE B.

Names and numbers of the Register Tickets of the Crew (including Apprentices) now serving on board the of the Port of of the burden of Tons, on taking departure from the Port of in the East Indies bound on a voyage to

No. and date of Ship's Register.	Name.	Capacity.	Number of Register Ticket.

Dated this day of 18

Master.

ACT No. XXVIII. OF 1850.

Passed on the 21st of June 1850.

Enacts (1) that vessels of a certain description shall not put to sea until the master thereof shall have executed an agreement with each seaman as to wages &c., (2) according to the prescribed form (see Schedule A) which shall be signed in the presence of the Registrar &c., (3) that certified copy shall be evidence of con-

tents on behalf of seaman, and that in case of its non-production he be at liberty to prove its contents by other evidence; (4) that no seaman shall forfeit his claim upon the ship, by reason of any agreement; (5) that his wages be calculated by the calendar month; (6) that he may in writing (see Schedule B) authorize the Registrar to receive a portion of his wages for the maintenance of his family; (7) that such payments shall cease on death &c. of seaman; (8) and shall be entered in a book, open to the parties concerned; (9) that Registrar shall explain to seamen the conditions on which they may allot a portion of their pay to their families; (10) that, under a penalty for default, the master shall deliver to the Registrar, a list of the seamen engaged by him or a certificate that he has employed none, and that he shall obtain from the Registrar a certificate that he has complied with the Regulations; (11) that, to prevent violation of this Act, Registrar may board vessels and muster seamen; (12) and, when necessary, stay the grant of a port clearance; (13) that the master shall pay seamen's wages within 7 days after arrival at port taking a receipt certified by Chief Officer &c.; and (14) in default forfeit double wages for each day not exceeding ten; (15) that deceased seamen's wages shall be paid to Registrar, who shall transfer it to legal representatives &c.; and (16) in case of the master neglecting to do so, he shall on conviction forfeit three times the amount and pay a fine; (17) that, in the event of ship being sold or seaman's service ending, a certificate of discharge shall be given him and provision made by the master for his employment or return; (18) and that in default, the expenses incurred on this account be recovered by a suit; (19) but that these obligations shall not apply to seaman consenting to be then and there discharged; (20) that in case of wreck, seaman shall be entitled to wages up to the time of wreck, on producing certificate &c; (21) that when on reduced provisions he shall receive prescribed rate of pecuniary allowance; (22) that assignment of wages, salvage &c. before due shall not be valid; (23) that under a penalty for default, there shall be on board-ship a sufficient supply of medicine &c.; (24) that master or seaman receiving hurt &c. shall be entitled to medical attendance &c., in addition to wages, at the expence of the owner; (25) that, if seaman receive an advance and the vessel be destroyed &c., he shall repay it, or serve out the advance, and in default be imprisoned &c.; (26) that Registrar may license any one to act as broker for securing seamen and for keeping a lodging house; (27) and that persons not so licensed except owner &c. of the ship &c. having seamen shall be liable to a penalty; (28) that the broker shall forfeit his license, if he engage &c. seamen at taverns not licensed; (29) that persons persuading seaman not to comply with this Act or to desert &c. shall be liable to the penalty mentioned; prescribes (30) the punishment to be awarded to seaman refusing to join the vessel or to go to sea, or absenting himself or deserting, (31) as well as for absenting himself during his service without leave or refusing to work; and further (32) that deserter shall forfeit his clothing &c. left on board, as also his wages &c.; and (33) be liable to repay to the owner the extra wages paid for a substitute; (34) explains what shall be deemed desertion; (35) provides the penalty for harboring deserters; (36) that no debt exceeding 3 Rs. shall be recoverable until termination of seaman's service, and that no public-house keeper shall detain seaman's chest &c., under penalty of 100 Rupees on complaint to Magistrate; (37) that upon complaint of three or more of the crew, Magistrate &c. may order survey of vessel and examination of provisions &c., which if bad, shall be replaced and master punished for neglecting to do so; (38) that

shelter shall be provided for seamen, and in default each be paid 4 Annas daily; (39) that all penalties with costs shall be recovered under Act 11 of 1839, (40) so shall wages and forfeitures, and (41) defines who shall be deemed master, seaman &c.

An Act for the encouragement of Merchant Seamen.

For the encouragement and protection of Merchant Seamen, It is enacted as follows :

I. The Master of any Vessel, navigated from any port within the territories under the Government of the East India Company, where a Registrar of Seamen is or shall be appointed under Act XXVII. 1850, registered as a British Vessel under any Statute of Parliament, or Act of the Governor General of India in Council, in force for the time being, for the Registry of British Vessels, except Country Craft not exceeding the burden of 300 tons employed only in Coasting voyages, shall not put to Sea on any day after the First day of August 1850, until an agreement, executed as hereinafter provided, shall have been made by him with such of his Crew as are shipped at any port within the said territories, specifying what wages each Seaman is to receive, and the quantity and quality of provisions he is to receive, the capacity in which each is to act, or serve, and the voyage in which the Vessel is to be employed, or the length of time that each is to serve.

II. Every such agreement shall be in the form set forth in Schedule (A) annexed to this Act, or such other form as shall be, from time to time, approved by the Governor General of India in Council, and shall be properly dated, and shall be signed by the Master and greater number of Seamen shipped at any port in the said territories, of each kind of rating belonging to the Vessel, on behalf of the Crew, respectively, in the presence of the Registrar of Seamen, or by some one appointed by him for that purpose, who, after hearing the agreement read over and explained to each Seaman by whom it is to be signed, in a language understood by him, shall, if the Seaman assent, cause him to put his signature or mark thereunto, and shall attest the same by his own signature, and shall keep recorded in his office a duplicate of such agreement executed and attested as aforesaid. Every Seaman shipped on board such Vessel, and not being an Apprentice, shall be entitled to have the benefit of such agreement, according to his rating, as if it were executed by him.

III. Every copy of such an agreement, certified by the Registrar to be a true copy, shall, in all cases, be taken as evidence of the contents thereof on behalf of the Seamen; and no Seaman shall, in

any case, be required to produce such agreement, or such copy as aforesaid, or to give notice for the production thereof: but, if the agreement shall not be produced and proved, he shall be at liberty to prove the contents or purport thereof, or to establish his claim by other evidence, according to the nature of the case.

IV. No Seaman, shipped under this Act, shall, by reason of any agreement, forfeit his lien upon the Ship, or be deprived of any remedy for the recovery of his wages to which he would otherwise be entitled, against any person or persons whatever; and no agreement, contrary to, or inconsistent with this Act, nor any clause, contract or engagement, whereby any Seaman shall consent or promise to forego, or give up any right or claim to wages in the case of freight earned by a Ship afterwards lost, or any right or claim to salvage or reward for salvage services, or such share of salvage or reward for salvage services as may be due to him by decree or award, or otherwise, shall be binding on such Seaman.

V. The wages of any Seaman engaged to serve on any Vessel under this Act, shall be calculated by the calendar month.

VI. If any Seaman, serving under the provisions of this Act, shall, by a writing, according to a form set forth in Schedule (B,) annexed to this Act, or such other form as shall be, from time to time, approved by the Governor General of India in Council, attested by the signature of the Registrar or his Assistant, and by the signature of the Master of the Vessel on which he is engaged to serve, and in which writing the purpose shall be stated, authorise the said Registrar to receive monthly from the Owner of the said Vessel or his Agent, any part of his wages, not exceeding one-third thereof, for the time for which he shall not have received any advance, for the purpose of maintaining his family during his absence, the said Owner or his Agent shall, on demand of the said Registrar, pay such sum to him, to be applied as aforesaid, without requiring any proof from the said Registrar that the said Seaman is still on board the said Vessel.

VII. All such payments, whether by the Owner, his Agent, or by the Registrar, shall cease from and after the production of a certificate from the Master of the Vessel, of the death, desertion or discharge of the said Seaman, or on reasonable evidence that the Vessel has been lost; but no payment, actually made by the Registrar to the party appointed by the said Seaman, shall be reclaimable by reason of his death, desertion, or discharge, or of the loss of the Vessel.

VIII. All such receipts and payments shall be entered in a book, and all entries in the said book shall be authenticated by the Registrar under his signature, or the signature of his Assistant; and the said book shall be, at all times, open to the inspection of the parties concerned.

IX. At the time of witnessing the execution of the agreement for service, the Registrar shall explain to the Seamen, parties thereunto, the conditions on which they can allot a part of their pay to their families during their service; and it shall be the duty of the Registrar to see that all Seamen leaving the port have the option of allotting part of their pay as aforesaid.

X. The Master of every such Vessel, before leaving any Port of Registry, shall deliver to the Registrar a list, signed by himself, of the name of every Seaman engaged by him in the territories under the Government of the East India Company, (including Apprentices,) with their rating and the number of their Register Tickets, according to such form as shall be, from time to time, approved by the Governor General of India in Council; and, if he shall not have engaged any Seaman within the said territories, the Master shall deliver to the Registrar a certificate of the fact signed by himself; and, on receiving the said list or certificate, and on being satisfied of its truth, the Registrar shall give to the Master a certificate under his hand, that the Master of such Vessel has complied with the regulations of the Registry Office. Every Master of any such Vessel, who shall leave a Port of Registry, without delivering such list or certificate as aforesaid, shall be liable to a penalty, not exceeding Two Hundred Rupees.

XI. For the purpose of preventing any Seaman from being shipped on board of any Vessel in any Port of Registry, contrary to the provisions of this Act, the Registrar of the Port, by himself, or his Agents, in a peaceable manner, may enter at any time on board of any such Vessel, and muster and examine the several Seamen employed therein; and any person, who shall obstruct the said Registrar or his Agents in such duty, shall be liable to a penalty not exceeding One Hundred Rupees.

XII. In cases when the Registrar shall have reason to believe that any of the provisions of this Act have been evaded or neglected by the Master, Owner or Agent of any Ship about to go to sea, the Registrar, by a writing under his hand, may stay the grant of a port clearance by the Master Attendant; and every Master Attendant shall comply with the written requisition of the Registrar in this respect.

XIII. The Master of every such Vessel, on which any Seaman engaged under this Act may be serving, shall, within seven days after the arrival of such Vessel at the Port where the voyage ends, or after the end of the service, according to the agreement entered into, in accordance with this Act, pay or cause to be paid to such Seamen the wages remaining due to them for their services, taking a receipt from each man for the amount paid to him, either separately or on a general list, which receipt shall be certified by the Chief or Second Officer, or other credible witness, and otherwise shall be of no force or validity.

XIV. Every Master or Owner, who shall neglect or refuse to pay any Seaman's wages, within the time mentioned in the last Section, shall forfeit and pay to such Seaman the amount of two days' pay, to be recovered as wages, for each day, not exceeding ten days in the whole, during which such payment has been delayed without sufficient cause.

XV. If any Seaman, to whom any wages are due, die before the wages due have been paid, then the wages shall be paid to the Registrar of the Port of Registry at which the ship shall first touch after his death, and the Registrar shall pay the same to his legal representative, and failing such legal representative, after the expiration of twelve months from the First of January next following the day on which he shall have received the said balance, into the Treasury of the East India Company, after having given due notice of such unclaimed balance being in his possession, by advertisement in the *Gazette*, at least twice during such period.

XVI. Every Master of a Vessel, who shall be convicted before a Magistrate of having neglected to pay to the Registrar, within ten days of the Ship's arrival in the port as aforesaid, the wages due to deceased Seamen, shall forfeit three times the amount of wages so neglected to be paid; and further shall be subject to such fine, not exceeding One Hundred Rupees, for each case of neglect, as to such Magistrate shall seem fit.

XVII. Whenever any Merchant Vessel, navigated and registered as is mentioned in Section I, and not having been wrecked or condemned, shall be sold or disposed of at any Port out of the territories under the Government of the East India Company, or whenever the service of any Seaman shall end at any such port, the Master shall give to each Seaman a Certificate of discharge, and his Register Ticket, and also either provide for him fit employment on board some other such Vessel bound

to some port within the said territories, or provide for him a passage to the port at which he was shipped, or such other port as may be agreed on, either free of cost, or by depositing with the British Consul or Vice Consul, or if there be none such, with some resident Merchant, at the port, not interested in the Vessel, such a sum of money as shall be, by him, deemed reasonably enough to pay the expenses of his subsistence and passage, which money shall be paid over and above any wages which may be due to him.

XVIII. If the master shall neglect or refuse to provide employment or the means of passage, for any of his Crew as mentioned in the last Section, the expense of doing so, when defrayed, shall be a charge on the Owner of the Vessel, unless in cases of barratry, wreck or condemnation, and may be recovered with full costs of suit from such Owner as so much money paid on his account, at the suit of the Consul or any other person defraying such expenses, or at the suit of the East India Company, in case the same has been paid or allowed out of any monies belonging to the East India Company; and, if defrayed by the Seaman himself, may be recovered as wages due to him.

XIX. The obligations of the last two Sections shall not apply to such of the Crew as shall consent, in writing, before the British Consul or Vice Consul, or if there be no British Consul or Vice Consul at the port, before one or more resident Merchants not interested in the Vessel, to be then and there discharged.

XX. In all cases of wreck or loss of the Ship, every Seaman then on board shall be entitled to his wages up to the time of the wreck or loss, whether or not the Ship has earned freight; provided he shall produce, from the Master or Chief Surviving Officer of the Ship, a Certificate that he did his best to save the Ship, Cargo and Stores.

XXI. Every Seaman shall be entitled to receive an increase of his wages for every day on which the allowance of provisions, which it was agreed he should receive, shall be reduced, at the rate of One Anna daily, while the reduction is not more than one-third of the quantity, and Two Annas daily, while the reduction is more than one-third: and these pecuniary allowances shall be recoverable as his other wages are.

XXII. No assignment or sale of Seaman's wages, salvage or prize money, made before the accruing thereof, nor any Power of Attorney expressed to be irrevocable, for the receipt of any Seaman's wages, salvage or prize money, shall be valid or binding on the party making the same; and any attachment, to be issued out of any Court, shall

not prevent the payment of any Seaman's wages, salvage or prize money to him.

XXIII. Every such Vessel shall have always on board a sufficient supply of medicines and appliances, suitable for diseases and accidents likely to happen on sea voyages, according to such scale as shall be, from time to time, issued by the Superintendent of the Indian Navy, with the approval of the Governor General of India in Council, and published in the *Government Gazettes* at Calcutta, Madras and Bombay; and, in default thereof, the Owner of the Vessel shall be liable to a penalty, not exceeding Two Hundred Rupees, and Five Rupees for every day during which such default shall wilfully continue.

XXIV. Whenever the Master, or any Officer or Seaman of any such Vessel shall receive any hurt or injury in the service of the Vessel, the expense of providing the necessary surgical and medical advice and attendance, with medicines, and for his subsistence, until he shall be cured or shall be brought back to the port from which he was shipped, or other port agreed upon, shall be defrayed, with the cost of his conveyance to such port, by the Owner of the Vessel, without any deduction on that account from the wages of such Master, Officer or Seaman; and, if paid by himself, may be recovered as part of his wages; and, if paid or allowed out of any monies belonging to the East India Company, may be recovered with full costs of suit, as a debt due to the East India Company.

XXV. If any Vessel, on board of which there shall be any Seaman, who has received an advance under this Act, shall, before going on the voyage for which such advance shall have been paid, be destroyed or injured by fire, or other cause, so as to prevent her going on her then intended voyage, or if such voyage shall be discomfited at the beginning, or before the advance has been worked out, the Master, Owner, or Agent of such Vessel may demand from such Seaman, unless he shall pay back the amount so advanced to him, service to the full amount of the advance received by him, on board of any other Vessel; and such Seaman, until he has worked out such advance, shall not be entitled, without the consent of such Master, Owner, or Agent, to take service in any vessel other than that on which he is so required to serve; and any such Seaman, who shall refuse to work out such advance on board such other Vessel, on summary conviction of his refusal before any Magistrate or Justice of the Peace, shall be liable to be imprisoned, with hard labour, for any term not exceeding six months.

XXVI. The Registrar of Seamen may grant, from time to time, to such persons as he may deem fit, a license to act as broker for procuring Seamen for Vessels shipping men under this Act, and also a license to the keeper of any lodging-house for Seamen, enabling him to allow Seamen to be engaged at his house, and also may revoke and annul such license on the misconduct of any such person: and every such license shall be granted for such term, upon such conditions, and upon such security given, as the said Registrar shall, from time to time, appoint.

XXVII. Every person, not licensed as aforesaid, and not being the Owner, part Owner, Master, or person in charge of the Vessel, on board of which the men are to serve, who shall hire or engage a Seaman, to be entered on board any Merchant Ship, at any Port of Registry, and every person, whether licensed or not, other than the Owner, part Owner, Master, or person in charge of the Merchant Ship, on board of which the men are to serve, who shall demand or obtain the Register Ticket of any Seaman, for the purpose, or under the pretence of engaging him on board of any Merchant Ship, and every person, whether or not licensed as aforesaid, who shall ask or take, directly or indirectly, from any Seaman, any fee, reward or other valuable consideration for hiring or engaging or endeavouring to hire or engage him on board of any Merchant Ship, shall be liable to a penalty, not exceeding Five Hundred Rupees.

XXVIII. Every licensed broker, who shall engage any Seaman at any punch-house or tavern, not being a licensed lodging-house for Seamen as aforesaid, or who shall be directly or indirectly interested in any punch-house or tavern, not being a licensed lodging-house for Seamen as foresaid, shall forfeit his license.

XXIX. Every person, who shall persuade or endeavour to persuade, or hinder any Seaman from complying with any of the provisions of this Act, or who shall counsel such Seaman to desert, or who shall conceal, or aid in concealing or maintaining any Seaman, who has deserted, shall be liable to a penalty, not exceeding Five Hundred Rupees.

XXX. If a Seaman, engaged under this Act shall at any time, whether before or during any voyage, neglect or refuse to join the Vessel, on board of which he shall have engaged to serve, or shall refuse to go to sea in such Vessel, or shall absent himself therefrom, without leave, or shall desert, any Justice of the Peace or Magistrate in the territories under the Government of the East India Company, at or near to the place, where such Vessel shall happen to be, or where such Seaman shall

be found, upon complaint made upon oath, by the Master, Mate, or Owner, or his Agent, may issue his warrant, and cause such Seaman to be taken into custody, and brought before him; and, upon due proof of such neglect, refusal, or absence, without reasonable excuse, or of desertion, may commit such Seaman to prison, or to the house of correction, there to be imprisoned, with or without hard labour, for a term, not exceeding thirty days; or, if he shall think fit, at the request of the Master, Mate, or Owner, or his Agent, instead of committing such Seaman, may cause him to be taken on board the said Vessel, or to be delivered to the Master, Mate, or Owner, or his Agent, for the purpose of being so taken and going on the voyage; and also may award to the Master, or Owner, or his Agent, such costs incurred in the apprehension of the Seaman, as to such Justice or Magistrate shall seem reasonable, not exceeding, in any case, the sum of Twenty Rupees, which shall be chargeable against, and may be deducted from the wages of such Seaman.

XXXI. Every Seaman, engaged under this Act, who, during the term of his service, shall wilfully, and, without leave, absent himself from the Vessel, or otherwise from his duty, shall (in all cases, not of desertion, or not treated as such by the Master,) forfeit, out of his wages, the amount of two days' pay, and for every twenty-four hours of such absence the amount of six days' pay, or, at the option of the Master, the amount of such expences as shall have been necessarily incurred in hiring a substitute; and every Seaman, who, while he shall belong to the Vessel, shall, without sufficient cause, neglect or refuse to perform his duty reasonably required of him by the Master, or other person in command of the Vessel, shall be subject to a like forfeiture, in respect of every such offence, and of every twenty-four hours' continuance thereof; and every such Seaman, who, after the vessel's arrival at her port of delivery, and during the term of his service, shall leave the Vessel without a discharge, or leave from the Master, shall forfeit one month's pay out of his wages: Provided always, that no such forfeiture shall be incurred, unless the fact of the Seaman's absence, neglect, or refusal shall be duly entered in the Log Book, the truth of which entry the Owner, Master or Agent, in all cases of dispute, shall be bound to substantiate, by the evidence of the Mate, or some other credible witness.

XXXII. Every Seaman engaged under this Act, who shall desert his Vessel, shall forfeit to the Owner all his clothes and effects which he may leave on board, and also all wages and emoluments to which he might otherwise be entitled; provided always, that every desertion be entered

in the Log Book at the time, and certified by the signatures of the Master and the Mate, or the Master and one credible witness.

XXXIII. If any Seaman shall desert, during the term for which he has engaged to serve, in any place beyond the Port where he was engaged, and the Master of the Vessel shall engage a substitute at a higher rate of wages than that stipulated in the agreement to be paid to the Seaman so deserting, the Owner, Agent, or Master of the Vessel shall be entitled to recover from the Deserter, by summary proceeding in the same manner as penalties are by this Act made recoverable, (so far as the same can be applied,) any excess of wages or portion thereof, which such Owner, Agent, or Master shall pay to such substitute, beyond the amount which would have been payable to the Deserter, if he had duly performed his service: Provided always, that no Seaman shall be imprisoned longer than three calendar months for non-payment of any such excess of wages.

XXXIV. The absence of a Seaman from his Vessel, for any time within twenty-four hours immediately before the sailing of a Vessel from any port, whether before or during any voyage, wilfully or knowingly, without leave, or the wilful absence of a Seaman from his Vessel, at, or for any time, without leave, and in such manner as to shew an intention to abandon his Vessel and not return thereto, shall be deemed desertion.

XXXV. Every person, who shall wilfully harbour or conceal any Seaman or Apprentice, who shall have deserted, knowing or having reason to believe such Seaman or Apprentice to be a Deserter, shall, for every such Seaman or Apprentice so harboured or concealed, be liable to a penalty, not exceeding One Hundred Rupees.

XXXVI. No debt, exceeding in amount Three Rupees, incurred by any Seaman after he shall have engaged to serve under this Act, shall be recoverable until the service agreed for shall be ended; nor shall any keeper of a public house, or of a lodging-house for Seamen be entitled to detain any chest, tools, or other property of any Seaman, for any debt alleged to have been contracted by him; and in case of such detention of the chest, tools, or other property of a Seaman, any Justice of the Peace or Magistrate at or near the place, upon complaint upon oath to be made by such Seaman, or by any person on his behalf, may enquire into the matter upon oath in a summary way; and, by warrant under his hand and seal, may cause such property to be seized and delivered over to such Seaman; and the person so detain-

ing the same shall be liable to a penalty, not exceeding One Hundred Rupees.

XXXVII. Any Justice of the Peace or Magistrate, within the territories subject to the East India Company, upon complaint made by any three or more of the Crew of any such Vessel, shall survey and examine, or cause to be surveyed and examined, the provisions, water, and medicines, put or supplied on board of the Vessel for the use and consumption of the Crew; and, if on such survey and examination, it shall be found that such provisions, water, or medicines, are of a bad quality or unfit for use, or not such as should be provided, or there shall not appear to be a sufficient quantity thereof, the Surveying officer shall signify the same, in writing, to the Master of the Vessel; and, if such Master shall not thereupon provide other fit provisions, water, or medicines, instead of any which may be signified by the said Surveying officer to be of a bad quality or unfit, or if any such Master shall not thereupon procure the needful quantity of provisions, water, and medicines, or shall issue to the Crew any provisions, water, or medicines, which shall have been signified by the Surveying officer to be of a bad quality, or unfit, he shall, in each of such cases, be liable to a penalty, not exceeding Five Hundred Rupees.

XXXVIII. A place of shelter shall be provided below a well caulked and substantial deck, for the men engaged under this Act, large enough to allow four superficial feet for every man; and if the place allotted be under the Topgallant Forecastle, such Forecastle deck shall be not less then four feet six inches above the one below it; and in default thereof every man who is unprovided with such adequate shelter shall be entitled to have an increase of his wages, at the rate of Four Annas daily, while he is so unprovided, which shall be recoverable as his other wages are.

XXXIX. All penalties, directed by this Act, may be imposed on summary conviction before a Magistrate or Justice of the Peace, and may be recovered, with costs, as if they were imposed by a Magistrate under Act II. 1839.

XL. All claims for wages or forfeitures due and incurred under the agreements entered into under this Act, may be heard and determined by any Justice of the Peace or Magistrate; and the amount, with costs, awarded by such Justice or Magistrate, shall be recovered from the party against whom the award is made, in the same manner as fines levied under the provisions of Act II. of 1839.

XLI. Every person having the charge or command of any Vessel sailing under this Act shall be deemed to be the Master of such Vessel, within the meaning of this Act, and every other person (Apprentices excepted) who shall be employed or engaged to serve in any capacity on board, except as surgeon, shall be deemed to be a Seaman, within the meaning of this Act; and the term "Owner" shall be deemed to comprehend all the several persons, if more than one, to whom the Vessel belongs, and the term "Agent" shall be deemed to comprehend all the several persons, if more than one, who are Agents of the "Owner."

SCHEDULE (A.)

An agreement made pursuant to an Act passed by the Governor General of India in Council and numbered No. XXVIII. of 1850, between the Master of the Ship of the Port of and of the burden of Tons, and the several persons whose names are set hereto on behalf of themselves and others shipped on board the said Ship, within the territories under the Government of the East India Company.

It is agreed by and on the part of the said persons, and they severally hereby engage to serve on board the said Ship in the several capacities against their respective names expressed [or from the day of to the day of both inclusive] (*where the intended voyage is to be described as nearly as can be done and the places at which it is intended the Ship shall touch, or, if that cannot be done, the nature of the voyage in which she is to be employed;*) and the said Crew further engage to conduct themselves in an orderly, faithful, honest, careful and sober manner, and to be, at all times, diligent in their respective duties and stations, and to be obedient to the lawful commands of the Master, in every thing relating to the said Ship, and the Materials, Stores and Cargo thereof, whether on board such Ship, in boats or on shore, in consideration of which services, to be duly, honestly, carefully and faithfully performed, the said Master doth hereby promise and agree to pay to the said Crew, by way of compensation or wages, the amount against their names respectively expressed. And it is hereby agreed, that any embezzlement, or wilful or careless loss or destruction of any part of the Ship's Cargo or Stores, shall be made good to the Owner out of the wages (so far as they will go) of the Seaman guilty of the same; and if any Seaman shall have entered himself as qualified for a duty for which he shall prove unfit, he shall be liable to

a reduction of the rate of wages hereby agreed for, in proportion to his unfitness. In witness whereof the said parties have hereto set their names, on the days against their respective signatures mentioned

No and date of Ship's Register	Place and time of Entry.				Men's names set forth at full length.	Number of Register Ticket.	Name of the Ship in which the seaman last served	Age.	Town or Country where born or place of birth.	Caste or Profession.	Amount of Wages per calendar month.	Share or Voyage	Amount of Wages advanced at time of Entry	Amount of monthly allotment.	Quantity and quality of Provisions per day.	Signature.	Witnesses' signature.
		Day	Month	Year													

hereby declare the truth of all the particulars set forth in this agreement made at the Port of ( ) this day of 18

Master

Mate

SCHEDULE (B.)

Ticket of allotment of wages by a registered Seaman at the Port of

I registered

Number now serving as on board the Vessel

at monthly wages of Rupees,

hereby authorize and request the Registrar of Seamen at

to receive from the Agents of the one third of my monthly wages as they become due, after I shall have served the time for which I have received advance, which time will expire on the day of next, and I hereby authorize the Registrar to pay the same to my or the person holding this paper, taking his or their receipt, monthly, on the back hereof.

ACT No. XXIX. OF 1850.

Passed on the 2d of August 1850.

Enacts (1) that whoever shall administer poison or other deleterious substance with intent to do bodily harm or an unlawful act, shall be liable to transportation or imprisonment; (2) that any person charged with intent to murder by such means, may, if so proved, be convicted of an offence under this Act, and (3) that it shall be construed with Act XXXI. 1838.

An Act to amend Act XXXI. 1838 *for the Prevention of Poisoning.*

For amendment of Act XXXI. 1838, relating to the administration of poison, or other deleterious substance, It is enacted as follows:

I. Whoever shall wilfully and maliciously administer to, or cause to be taken by any person, any poison, or any stupifying, or intoxicating drug, or any unwholesome thing, with intent in any of the cases aforesaid to do any permanent, or temporary bodily harm to such person, or with intent to commit, or abet the commission of any unlawful act, shall be liable, at the discretion of the Court to be transported to such place as the Court shall direct, for life, or for any term of years, or to be imprisoned for any term not exceeding four years.

II. In any case in which any person shall be charged with administering to, or causing to be taken by any other person any poison, or other destructive thing with intent to commit murder, and the offence proved shall amount only to an offence under this Act, he may be punished as if he had been charged with an offence under this Act.

III This Act shall be construed with and as part of Act XXXI. 1838.

ACT No. XXX. OF 1850.

Passed on the 9th of August 1850.

Enacts that Act I 1846, shall not apply to private agreements made before its passing

An Act to remove doubts on the Construction of Act I. 1846, *and Act. IV.* 1850.

Whereas doubts have been entertained whether or not the operation of Act I. 1846, Section VIII., and of Act IV. 1850, Section I., is retrospective, It is declared and enacted as follows:

I. The provisions of Act I. 1846 shall not be deemed to apply to private agreements between parties and their pleaders made before the passing of the said Act.

* * * * *

[*Sections II. III. and IV. are omitted as they refer to Act IV of* 1850 *which is an Act for the amendment of the procedure in cases of Appeal to the Sudder Dewanny Adawlut in Bengal.*]

ACT No. XXXIV OF 1850

Passed on the 23d of August 1850.

Recites doubts as to the construction of Regulation III. of 1818, Bengal Code, and the expediency of extending it; enacts (1) that warrant of commitment under

this Regulation may be directed to any officer in charge of any gaol &c , (2) that the Regulation shall extend to any Sheriff &c having a State Prisoner in custody, and (3) that any prisoner now confined under warrant of Governor General in Council shall be deemed to have been lawfully committed

An Act for the better custody of State Prisoners

Whereas doubts have been entertained whether State Prisonérs confined under Regulation III. 1818, of the Bengal Code, can be lawfully detained in any fortress, gaol, or other place, within the limits of jurisdiction of any of the Supreme Courts of Judicature, established by Royal Charter, and it is expedient that such doubts be removed, and the powers of the said Regulation extended to all the territories under the Government of the East India Company, It is enacted as follows

I The warrant of commitment of any State Prisoner, under Regulation III. 1818, of the Bengal Code, may be directed to the Sheriff of the gaol of any of the Supreme Courts of Judicature established by Royal Charter in the said territories, or to the Commandant of any fortress, or to the Officer in charge of any gaol or other place, in which it is deemed expedient that such State Prisoner be confined, in any part of the said territories, and such warrant shall be sufficient authority for the detention of such State Prisoner in the fortress, gaol or other place mentioned in the warrant.

II Regulation III. 1818, (a) of the Bengal Code, shall be extended and applied to every Sheriff, Commandant or Officer, having any State Prisoner in custody, under the said Regulation, as explained and extended by this Act.

(a) This Regulation is inserted here for easy reference and as it has not hitherto appeared in any of the editions of the Regulations and Acts relating to the Madras Presidency —

A. D 1818. REGULATION III.

A REGULATION *for the confinement of State Prisoners* —PASSED *by the Vice-President in Council on the 7th April* 1818.

Preamble

Whereas reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign powers, the preservation of tranquillity in the territories of Native Princes, entitled to its protection, and the security of the British dominions from foreign hostility, and from internal commotion, occasionally render it necessary to place under personal restraint, individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper, and whereas it is fit that, in every case of the nature herein referred to, the determination to be taken, should proceed immediately from the authority of the Governor

III. Any State Prisoner, now confined under any such warrant within the jurisdiction of any of the said Supreme Courts, under the warrant of the Governor General in Council, shall be deemed to have been lawfully committed thereunto.

General in Council; and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint, otherwise than in pursuance of some judicial proceeding, the grounds of such determination should from time to time come under revision, and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor General in Council, all circumstances relating either to the supposed grounds of such determination, or to the manner in which it may be executed; and whereas the ends of justice also require that, due attention be paid to the health of every State Prisoner confined under this Regulation, and that suitable provision be made for his support according to his rank in life, and to his own wants and those of his family; and whereas the reasons above declared some times render it necessary that the estates and lands of zemindars, talookdars and others situated within the territories dependant on the Presidency of Fort William, should be attached and placed under the temporary management of the revenue authorities, without having recourse to any judicial proceeding; and whereas it is desirable to make such legal provisions as may secure from injury, the just rights and interests of individuals, whose estates may be so attached under the direct authority of Government; the Vice-President in Council has enacted the following rules, which are to take effect throughout the Provinces immediately subject to the Presidency of Fort William from the date on which they may be promulgated.

Mode of proceeding for placing individuals under restraint as State Prisoners.

II. *First.* When the reasons stated in the preamble of this Regulation may seem to the Governor General in Council to require, that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor General in Council, and under the hand of the Chief Secretary, or of one of the Secretaries to Government, shall be issued to the officer in whose custody such person is to be placed.

Form of warrant to be issued.

Second. The warrant of commitment shall be in the following form:

To the (*here insert the officer's designation.*)

Whereas the Governor General in Council, for good and sufficient reasons, has seen fit to determine that (*here insert the State Prisoner's name*) shall be placed under personal restraint at (*here insert the name of the place*) you are hereby required and commanded, in pursuance of that determination, to receive the person above named into your custody, and to deal with him in conformity to the orders of the Governor General in Council, and the provisions of Regulation III. of 1818.

Fort William, the

By order of the Governor General in Council,

A. B.

Chief Sec. to Govt

ACT No. XXXVI OF 1850.

Passed on the 4th of October 1850

(1) Repeals part of the 113th of the Articles of War for the Native Army, and (2) enacts that no officer &c. shall be entitled to pay &c. while under sentence, but shall be clothed and subsisted at rates prescribed by Governor General.

An Act to amend the 113*th Article of War for the Native Army.*

Whereas it is expedient that Native Soldiers, when imprisoned, should be treated as European Soldiers are in the like case, as respects subsistence and clothing, It is enacted as follows:

I. From and after the First day of December 1850, so much of the 113th Article of War for the Government of the Native Officers and

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Such warrant to be sufficient authority for the detention of any State Prisoner.

Third. The warrant of commitment shall be sufficient authority for the detention of any State Prisoner in fortress, jail or other place, within the territories subject to the Presidency of Fort William.

Officers in whose custody, State Prisoners may be placed, to submit to Government periodical reports.

III. Every officer in whose custody any State Prisoner may be placed, shall, on the 1st of January and 1st of July of each year, submit a report to the Governor General in Council, through the Secretary to Government in the Political Department, on the conduct, the health and the comfort of such State Prisoner, in order that the Governor General in Council may determine whether the orders for his detention shall continue in force or shall be modified.

State Prisoners in the custody of the Zillah or City Magistrate, to be visited by the Judge of Circuit at the Sessions.

IV. *First.* When any State Prisoner is in the custody of a Zillah or City Magistrate, the Judges of Circuit are to visit such State Prisoner, on the occasion of the periodical sessions, and they are to issue any orders concerning the treatment of the State Prisoner, which may appear to them advisable, provided they be not inconsistent with the orders of the Governor General in Council, issued on that head.

State Prisoners in custody of a public officer not being a Zillah or City Magistrate, to be visited by such person as may be nominated by Government for the duty.

Second. When any State Prisoner is placed in the custody of any public officer not being a Zillah or City Magistrate, the Governor General in Council will instruct either the Zillah or City Magistrate, or the Judge of Circuit, or any other public officer, not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods, and to submit a report to Government, regarding the health and treatment of such prisoner.

Representations which may be made by State Prisoners, to be submitted to Government

V. The officer, in whose custody any State Prisoner may be placed, is to forward, with such observations as may appear necessary, every representation which such State Prisoner may from time to time be desirous of submitting to the Governor General in Council.

Soldiers in the Military Service of the East India Company as provides for the forfeiture of allowances, and the subsistence of such Officers and Soldiers, when in imprisonment under the sentence of any Court Martial or of any Court of Criminal Judicature, is repealed.

Early report to be made to Government, regarding the nature of the confinement, the health and the allowances granted to State Prisoners.

VI. Every officer in whose custody any State Prisoner may be placed, shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor General in Council, whether the degree of confinement to which he may be subjected, appears liable to injure his health, and whether the allowance fixed for his support, be adequate to the supply of his own wants and those of his family, according to their rank in life.

The allowance fixed for the support of a State Prisoner, to be duly appropriated to that object.

VII. Every officer in whose custody any State Prisoner may be placed, shall take care that the allowance fixed for the support of such State Prisoner, is duly appropriated to that object.

The provisions contained in Sections III. to VII. of the present Regulation, applicable to all persons who are now confined as State Prisoners.

VIII. The provisions contained in Sections III, IV, V, VI, and VII, of this Regulation, are hereby declared to be applicable to all persons who are now confined as State Prisoners under the authority of Government, within the territories subject to the Presidency of Fort William.

Rules for the attachment of estates or lands by the orders of Government without a previous decision of a Court of Justice.

IX. Whenever the Governor General in Council, for the reasons declared in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any zemindar, jageerdar, talookdar or other person, without any previous decision of a Court of Justice, or other judicial proceeding, the grounds on which the resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the Secretaries to Government, to the Judge and Magistrate of the district, in which the lands or estates may be situated, to the Provincial Court of Appeal and Circuit, and to the Sudder Dewanny Adawlut and Nizamut Adawlut.

Lands or estates so attached, to be placed under the management of the Officers of Government in the Revenue Department,

X. *First.* The lands or estates which may be so temporarily attached, shall be held under the management of the Officers of Government in the Revenue Department, and the collections shall be made and adjusted on the same principles as those of other estates held under khas(a) management.

And not liable to be sold on account of decrees of the Civil Courts or otherwise, while under attachment.

Second. Such lands or estates shall not be liable to be sold in execution of decrees of the Civil Courts, or for the realization of fines or otherwise, during the period in which they may be so held under attachment.

(a) Corruptly *Kas, Khass, Cass*—As a revenue term it is applied to the management of Estates and the collection of the Revenue by the Officers of the Government, without any intermediate person between them and the cultivators; also to lands held by Zemindars and cultivated by themselves for their own benefit.—*Professor Wilson.*

II. From and after the said First day of December 1850, no Native Officer, or Soldier, or Public Follower in the Military Service of the East India Company shall be entitled to pay or allowances, when imprisoned under the sentence of a Court Martial, or a commuted sentence, or under the sentence of a Court of Criminal Judicature; but shall be clothed and subsisted at such rates, or in such manner, as the Governor General of India in Council may from time to time order.

ACT No. XXXVII. OF 1850.

Passed on the 1st of Nov. 1850.

Recites expediency of amending the law respecting public servants not removable without sanction of the Government; (1) repeals certain Acts; (2) provides that inquiry shall be made on formal charges; (3) that Court, Board &c. may be appointed Commissioners, and that 10 days previous notice shall be given to the accused; (4) that a person shall be nominated to conduct the prosecution on behalf of Government; (5) that the accusation shall be reduced to writing on oath, and the accuser subject to penalties of perjury for false allegations; (6) that private prosecutor shall give security to prosecute effectually and to answer any counter charge; (7) that Government may abandon the prosecution at any stage, and allow the accuser to continue it; (8) confers certain powers on Commissioners in respect to contempts, issuing summons &c; and (9) provides the penalties for disobedience; (10) that a list of the charges, documents and witnesses shall be delivered to the accused previous to trial; (11) that charges shall be exhibited to Commissioners, and the accused required to plead for them, and in default to be taken to admit the truth of them; (12) that prosecutor may then explain charges; (13) and the examination of witnesses shall follow; (14) that with permission new evidence may be taken &c.; (15) that accused may then make his defence, (16) examine witnesses &c.; (17) that witnesses shall be examined on oath &c., and prosecutor may give evidence; (18) that notes of evidence shall be taken and read to witnesses; (19) that if accused makes a defence and exhibits evidence, prosecutor shall be entitled to reply &c.; (20) that Commissioners may require the

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The Government will make such arrangement as may be proper, for the satisfaction of the decrees of the Civil Courts in such instances.

Third. In the cases mentioned in the preceding clause, the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts.

Rules to be observed in cases where Government may order the release of an estate from attachment.

XI. Whenever the Governor General in Council shall be of opinion that the circumstances which rendered the attachment of such estate necessary, have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the Revenue authorities will be directed to release the estate from attachment, to adjust the accounts of the collections, during the period in which they may have been superintended by the Officers of Government, and to pay over to the proprietor the profits from the estate, which may have accumulated during the attachment.

amendment of charges for want of clearness, and adjourn the enquiry under certain circumstances; (21) that they shall report to Government their proceedings; (22) and that Government may order further evidence to be taken, or new charges to be framed &c.; (23) defines the word 'Government'; (24) provides that nothing in this Act shall repeal Acts respecting suspension or dismissal of Principal Sudder Ameens &c. (25) or affect the authority of Government to remove any public servant without enquiry.

For regulating Inquiries into the behaviour of Public Servants.

Whereas it is expedient to amend the law for regulating inquiries into the behaviour of public servants not removable without the sanction of Government, and to make the same uniform throughout the territories under the Government of the East India Company, It is enacted as follows:

I. The following Acts, VI. 1838, XXVI. 1839, and XIII. 1843 are repealed, but not so as to revive any Act or Regulation, or part of any Act or Regulation thereby repealed.

II. Whenever the Government shall be of opinion that there are good grounds for making a formal and public inquiry into the truth of any imputation of misbehaviour by any person in the service of the East India Company not removable from his Office without the sanction of the same Government, it shall cause the substance of the imputations to be drawn into distinct Articles of Charge, and shall order a formal and public inquiry to be made into the truth thereof.

III. The inquiry may be committed either to the Court, Board or other authority to which the person accused is subordinate, or to any other person or persons, to be specially appointed by the Government, Commissioners for the purpose: notice of which Commission shall be given to the person accused ten days at least before the beginning of the inquiry.

IV. When the Government shall think fit to conduct the prosecution, it shall nominate some person to conduct the same on its behalf.

V. When the charge shall be brought by an accuser, the Government shall require the accusation to be reduced to writing, and verified by the oath or solemn affirmation of the accuser, and every person who shall wilfully and maliciously make any false accusation under this Act, upon such oath or affirmation, shall be liable to the penalties of perjury: but this enactment shall not be construed to prevent the Government from instituting any inquiry which it shall think fit, without such accusation on oath or solemn affirmation as aforesaid.

VI. Where the imputations shall have been made by an accuser, and the Government shall think fit to leave to him the conduct of the prosecution, the Government, before appointing the Commission, shall require him to furnish reasonable security that he will attend and prosecute the charge thoroughly and effectually, and also will be forthcoming to answer any counter-charge or action which may be afterwards brought against him for malicious prosecution or perjury or subornation of perjury, as the case may be.

VII. At any subsequent stage of the proceedings, the Government may, if it think fit, abandon the prosecution, and in such case may, if it think fit, on the application of the accuser, allow him to continue the prosecution, if he is desirous of so doing, on his furnishing such security as is hereinbefore mentioned.

VIII. The Commissioners shall have the same power of punishing contempts and obstructions to their proceedings, as is given to Civil and Criminal Courts by Act XXX. 1841, and shall have the same powers for the summons of witnesses, and for compelling the production of documents, and for the discharge of their duty under the Commission, and shall be entitled to the same protection as the Zillah and City Judges, except that all process to cause the attendance of witnesses, or other compulsory process, shall be served through and executed by the Zillah or City Judge in whose jurisdiction the witness or other person resides, on whom the process is to be served, and if he resides within Calcutta, Madras, or Bombay, then through the Supreme Court of Judicature there. When the Commission has been issued to a Court, or other person or persons having power to issue such process in the exercise of their ordinary authority, they may also use all such power for the purposes of the Commission.

IX. All persons disobeying any lawful process issued as aforesaid for the purposes of the Commission shall be liable to the same penalties, as if the same had issued originally from the Court or other authority through whom it is executed.

X. A copy of the Articles of Charge, and list of the documents and witnesses by which each charge is to be sustained shall be delivered to the person accused, at least three days before the beginning of the inquiry, exclusive of the day of delivery, and the first day of the inquiry.

XI. At the beginning of the inquiry, the prosecutor shall exhibit Articles of Charge to the Commissioners, which shall be openly read,

and the person accused shall thereupon be required to plead 'guilty' or 'not guilty' to each of them, which pleas shall be forthwith recorded with the Articles of Charge. If the person accused refuses, or without reasonable cause neglects to appear to answer the charge either personally or by his Counsel or Agent, he shall be taken to admit the truth of the Articles of Charge.

XII. The prosecutor shall then be entitled to address the Commissioners in explanation of the Articles of Charge, and of the evidence by which they are to be proved: his address shall not be recorded.

XIII. The oral and documentary evidence for the prosecution shall then be exhibited: the witnesses shall be examined by or on behalf of the prosecutor, and may be cross-examined by or on behalf of the person accused. The prosecutor shall be entitled to re-examine the witnesses on any points on which they have been cross-examined but not on any new matter, without leave of the Commissioners, who also may put such questions as they think fit.

XIV. If it shall appear necessary before the close of the case for the prosecution, the Commissioners may in their discretion allow the prosecutor to exhibit evidence not included in the list given to the person accused, or may themselves call for new evidence, and in such case the person accused shall be entitled to have, if he demand it, an adjournment of the proceedings for three clear days, before the exhibition of such new evidence exclusive of the day of adjournment and of the day to which the proceedings are adjourned.

XV. When the case for the prosecution is closed, the person accused shall be required to make his defence, orally or in writing, as he shall prefer. If made orally, it shall not be recorded; if made in writing, it shall be recorded, after being openly read, and in that case a copy shall be given at the same time to the prosecutor.

XVI. The evidence for the defence shall then be exhibited, and the witnesses examined, who shall be liable to cross-examination and re-examination and to examination by the Commissioners according to the like rules as the witnesses for the prosecution.

XVII. All witnesses, either for the prosecution or defence, shall be examined on oath, or, if exempt from taking an oath in Courts of Justice, on solemn affirmation, to be administered in either case by one of the Commissioners, and every witness so examined and wilfully giving false evidence on any material point shall be deemed guilty of and liable to the penalties of perjury. When the prosecution is not conducted

on behalf of Government, the prosecutor may himself give evidence for the prosecution and may be examined for the defence.

XVIII. The Commissioners or some person appointed by them shall take notes in English of all the oral evidence, which shall be read aloud to each witness by whom the same was given, and if necessary explained to him in the language in which it was given, and shall be recorded with the proceedings.

XIX. If the person accused makes only an oral defence, and bits no evidence, the inquiry shall end with his defence; if he records a written defence, or exhibits evidence, the prosecutor shall be entitled to a general oral reply on the whole case, and may also exhibit evidence to contradict any evidence exhibited for the defence, in which case the person accused shall not be entitled to any adjournment of the proceedings, although such new evidence were not included in the list furnished to him.

XX. When the Commissioners shall be of opinion that the Articles of Charge, or any of them, are not drawn with sufficient clearness and precision, the Commissioners may, in their discretion, require the same to be amended, and may thereupon, on the application of the person accused, adjourn the inquiry for a reasonable time. The Commissioners may also, if they think fit, adjourn the inquiry from time to time, on the application of either the prosecutor or the person accused, on the ground of the sickness or unavoidable absence of any witness or other reasonable cause. When such application is made and refused, the Commissioners shall record the application, and their reasons for refusing to comply with it.

XXI. After the close of the inquiry, the Commissioners shall forthwith report to Government their proceedings under the Commission, and shall send with the record thereof their opinion upon each of the Articles of Charge separately, with such observations as they think fit on the whole case.

XXII. The Government, on consideration of the report of the Commissioners, may order them to take further evidence, or give further explanation of their opinions. It may also order additional Articles of Charge to be framed, in which case the inquiry into the truth of such additional Articles shall be made in the same manner as is herein directed with respect to the original charges. When Special Commissioners have been appointed, the Government may also, if it thinks fit, refer the report of the Commissioners to the Court or other authority to which

the person accused is subordinate, for their opinion on the case; and will finally pass such orders thereon as appear just and consistent with its powers in such cases.

XXIII. The word 'Government' as used in this Act means the Governor General in Council, the Governor or Deputy Governor of the Presidency of Fort William in Bengal, the Governor in Council of the Presidencies of Fort St. George and Bombay, respectively, and the Lieutenant Governor of the North-Western Provinces of Bengal, whose sanction is necessary for the removal of the person accused.

XXIV. Nothing in this Act shall be construed to repeal any Act or Regulation in force for the suspension or dismissal of Principal and other Sudder Ameens or of Deputy Magistrates or Deputy Collectors, but a Commission may be issued for the trial of any charge against any of the said Officers, under this Act, in which the Government shall think it expedient.

XXV. Nothing in this Act shall be construed to affect the authority of Government, for suspending or removing any public servant for any cause without an inquiry under this Act.

ACT No. XXXVIII. OF 1850.

Passed on the 1st of November 1850.

Recites expediency of extending the privilege given by Act XXII. of 1839; and enacts (1) that in all Courts of the E. I. C. every person on trial may defend himself either personally, or by an agent, (2) subject to the rules framed by Fouzdaree Adawlut &c.; (3) defines who shall be deemed authorized agent; (4) and provides that this Act shall not be deemed to dispense with presence of prosecutor or accused.

An Act to allow Counsel to all persons on the trial of offences.

Whereas an Act of Parliament was passed in the seventh year of the reign of His late Majesty for enabling persons indicted of felony to make their defence by Counsel or Attorney, the provisions of which Act were enlarged and extended to Her Majesty's Courts of Justice in the Territories under the Government of the East India Company by Act XXII. 1839, and whereas it is just and reasonable that the like privilege be given to all persons on the trial of offences against the law, It is enacted as follows:

I. In all Courts and before all Magistrates, or persons exercising any of the powers of a Magistrate, under the authority of the East India

Company, every person on trial for the commission of any offence shall be admitted to defend himself either personally or by his authorized agent, and, after the close of the case for the prosecution, to make full answer and defence thereto either personally or by his authorized agent.

II. The said Courts, Magistrates and persons, subject to such rules as shall be from time to time made for their guidance by the Nizamut or Fouzdaree Adawlut, may allow any prosecution to be conducted by an authorized agent.

III. In those Courts in which any person now has by law the right of employing whomsoever he can employ as Counsel or Pleader, nothing in this Act shall be deemed to restrict that right: in all other cases those persons only shall be deemed authorized agents within the meaning of this Act who are either Advocates of one of the Supreme Courts of Justice established by Royal Charter, or authorized Pleaders of the Civil Courts of the East India Company, or, by leave of the Court, Magistrate or other person before whom the prisoner is on trial, any other person who is employed by the prosecutor or prisoner as his agent.

IV. This Act shall not be deemed to dispense with the presence of any prosecutor or person on trial for the commission of any offence, when the presence of such prosecutor or accused person is now by law required.

ACT No. XLII. OF 1850.

Passed on the 20th of December 1850.

An Act for giving additional facilities for Public Works in Bengal.

[*The provisions of this Act having been extended to the Madras Presidency by Sec.* XX *of* Act XX *of* 1852, *it has been inserted as a foot note to that Act.*]

ACT No. XLIII. OF 1850.

Passed on the 27th of December 1850.

Declares (1) what Joint Stock Companies may be registered; (2) that Supreme Court may order registration on being petitioned; (3) that with such petition shall be filed deed of partnership &c., and that it shall contain the particulars prescribed in Clauses 1 to 5 (see also Sec: 6); that meeting of shareholders—notified as directed—shall be held for the purpose of resolving on registration; and (5) that holders to the extent of one-half of the shares shall determine the question; (6) that, in such

case, petition shall contain certain further particulars; (7) that no Company shall be disqualified for certain reasons; (8) prescribes the regulations to which a registered Company shall be subject, in regard 1st to holding general meetings, 2d to holding extraordinary meetings, 3d to purchasing or taking as security their own shares, 4th to making loans to Director or other officer, 5th to Directors being security, 6th to audit of accounts, 7th to filing and circulating of auditor's report, balance sheet &c; (9) that Supreme Court may, on petition of shareholder, enforce the performance of their duty by Directors; (10) that a memorial of shareholders, Directors &c. shall be filed in Court annually and change of officers notified as they occur; (11) that names &c. of the several persons holding one share shall be particularized and that they shall be jointly and separately liable; (12) that the memorial shall be signed and verified; (13) that office copy of registered deed or memorial under seal of the Court shall be evidence; (14) that Record keeper of the Court shall allow inspection of deeds and furnish copies under seal, (15) on payment of the prescribed fee; (16) that shares may be sued and transferred under conditions specified; (17) and the payment of all calls then due; (18) that parties may require a memorial of such transfer to be filed; (19) and that it shall not be complete until so filed; (20) that error in memorial may be corrected; (21) that Registers of transfers may be closed for a time; (22) that the Company shall not be bound to see to the execution of any trust; (23) that the Company shall sue and be sued by its registered name and be served with writ &c. as prescribed; (24) and shall also be so described in indictments; (25) that the Company shall be non-suited unless it be proved that suit is brought by the authority specified; (26) that suit &c. shall not be prejudiced by change of partnership &c., (27) or affected by either plaintiff or defendant being a partner; (28) that all unpaid capital shall be deemed a debt to the Company; (29) that when committing an act of insolvency, the Company shall be liable to the jurisdiction of the Insolvent Court; (30) but an adjudication of forfeiture shall not be deemed an act of insolvency of individual members; (31) but to pass property &c. to the Assignee, (32) who may compromise debts &c.; (33) that if Directors be unable to meet engagements, they shall at a special meeting declare it in a resolution and publish it, which shall be deemed an act of forfeiture &c.; (34) so shall the non-satisfaction of a judgment and execution; that execution creditor &c. may petition Insolvent Court against such Company; (35) and that thereupon such Court shall make the usual investing and ancillary orders &c.; (36) defines duties of Directors in event of insolvency; declares (37) that after the adjudication of forfeiture, shareholders shall not be liable except in respect to special contract; (38) prescribes how the sum required to pay the debts of the Company may be raised, and that defaulting shareholders may be adjudged to have committed an act of insolvency &c.; (39) that shareholders in the last memorial shall be first called upon to contribute and then those specified; (40) that Court may make allowance for unrealized assets; (41) that under certain circumstances assessment shall not be deemed erroneous if unequal; (42) prescribes the manner in which the balance after payment of debts shall be distributed; (43) that if the company become insolvent three years before registration, those who were shareholders within three years previous to the filing of the petition for relief shall be liable; (44) that Court of Equity may assist in winding up the affairs of the Company on application; (45) and give relief to shareholders; (46) that Official Assignee shall rank as creditor of insolvent shareholder on behalf of the Company; (47) after adjudication of forfeiture the Company shall lose its privileges, and the partnership shall be dissolved.

An Act for the Regulation of Registered Joint Stock Companies.

For the Regulation of Joint Stock Companies registered under this Act, it is enacted as follows

I. Every unincorporated Company of partners, associated under a deed containing a provision that the shares in the stock or business of the said Company are transferable without the consent of all the partners, and also every Company established for some literary, scientific or charitable purpose, which does not carry on any business for the pecuniary benefit of any of the Proprietors or Shareholders, shall be entitled to registration under this Act.

II. The Supreme Courts of Judicature at Calcutta, Madras, or Bombay may, on such petition as is hereinafter mentioned of any persons desiring to register the Company to which they belong, order the registration of such Company; and thereupon such Company shall be duly registered in the said Court, and deemed a registered Company within the meaning of this Act.

III. Every petition for the registration of any Company under this Act shall be filed in the Court to which it is presented, with the deed, or a copy of the deed of partnership of the Company, and a list of the Directors and Shareholders of the Company, severally verified by affidavit of the Secretary, or Manager, or principal or other servant of the Company, intended to be a Registered Officer of the Company within the Presidency in which the petitioners shall apply for registration; and such petition shall set forth the following particulars, that is to say:

First.—The names and additions of all those who are at that time partners of the Company, and their usual places of residence; and, when any Company, which has carried on its business before registration, shall be admitted to the privileges of this Act, a separate memorial of the names and additions and last known place of abode of all persons who, within three years next before the presentation of the petition, were partners thereof.

Second.—The style under which the Company is to carry on its business.

Third.—The names of the principal places, within the Presidency in which they seek to be registered, where the business is to be carried on.

Fourth.—The amount of capital stock and of any proposed addition thereto, and if consisting of money how much is paid up, and if other than money, the nature of such capital stock, and in all cases how in-

vested, and if separate provision is made for working capital, the amount thereof, and how much of it is paid up.

Fifth.—The number of shares into which the capital stock has been, or is to be divided.

IV. Before the registration of any Company, which has carried on its business before registration under a deed of partnership, not containing any provision for registration of the Company under this Act, the Directors shall call a special meeting of the Shareholders for the purpose of resolving that the Company shall be registered under this Act, to be held at a place and time to be mentioned in the notice of meeting; and such notice, beside being given to the partners in the manner provided in the deed of partnership for notice of special meetings, shall be published in the *Government Gazette*, and in at least one other newspaper circulating within the Presidency; and the time of holding such meeting shall be not sooner than three months and not later than four months after the first of such publications.

V. One-half in number of the Shareholders assembled, either personally or by their lawfully constituted attornies, at such meeting, owning at least one-half of the whole number of shares owned by all the Shareholders so present, may resolve that the Company shall be registered under this Act, and such resolution so carried shall be binding on the whole Company.

VI. The petition for registration in such case shall contain, beside the other particulars herein mentioned, statements of the notice and publication thereof, of the holding of the meeting, and of the several numbers of Shareholders and shares held by them collectively, who were present at the meeting, and who voted in favor of the resolution respectively, and shall state that the petition is presented upon such resolution.

VII. No Company shall be disqualified for registration by reason of any outstanding loan to any Director, or by reason of any Director being a surety, or under any other pecuniary engagement to the Company: but any Director having such loan or being such surety or under such engagement shall, by the fact of the registration of the Company, cease to be a Director, unless the loan or other engagement be such as is authorized by this Act.

VIII. Every registered Company shall be subject to the following regulations, notwithstanding any provisions in their deed of partnership varying therefrom; and the Supreme Court, in which the Company

shall be registered, shall have authority, on the petition of any Shareholder, to enforce the same, and from time to time, to make any order or orders in respect of any breach or neglect thereof, as to such Court shall seem meet.

First.—Every registered Company shall hold one or more ordinary general meetings of the Company in every year, at such times and places as are appointed by the deed of partnership, or in default thereof, as the Supreme Court, in which such Company is registered, shall in the order for registration appoint, subject to variation by any subsequent order or orders of such Court.

Second.—Every registered Company shall, from time to time, hold an extraordinary general meeting, whenever seven Shareholders, or any greater number may require it, by notice in writing under their hands, to be delivered to a Registered Officer of the Company, or, if he cannot be found, to any other servant of the Company, at one of their usual places of business.

Third.—No registered Company shall purchase its own shares or make any loan of money or securities for money to any person or persons, on the security of a share or shares in the partnership or business; and every such purchase or loan shall be a breach of trust within the meaning of all laws now in force, or hereafter to be in force relating to breaches of trust by agents or trustees misappropriating money or property.

Fourth.—No registered Company shall make any loan of money or securities for money to any Director or Registered Officer of such Company, or to any member of a Local Committee at any Branch or Agency, except only in the case of Banking Companies, to such limited amount, and on such securities as shall be sanctioned by the deed, or, from time to time, by a general meeting of the Shareholders of such Banking Company; and every such transaction, except as aforesaid, shall be a like breach of trust: And the particulars of every loan made to any Director or Registered Officer of such Company shall be reported to the next general meeting of Shareholders, with a statement and specification of the several securities on which such loans were advanced.

Fifth.—No Director or Member of a Local Committee at any Branch or Agency, or Registered Officer shall become a security or guarantee for any person in any loan or other transaction with the Company, nor shall he, in any way, incur liability to the Company uncovered by such security as is sanctioned by the deed of partnership.

Sixth.—The accounts of every registered Company shall be audited half yearly oftener, by two or more Auditors, chosen at a general meeting of the Shareholders, none of the Auditors being a Director or Registered Officer at the time.

Seventh.—A copy of the Auditor's report (if any) and balance sheet and a separate profit and loss account, and a capital account shewing the amount of the capital, and how invested, and the estimated value thereof, verified by affidavit of the same being made to the best of their knowledge and belief, as often as the accounts are audited, shall be filed in the court, in which the Company is registered, and a written or printed copy of the said report, balance sheet, and accounts, shall be delivered to every Shareholder who shall demand it, or sent by the General Post Office to the place where he may, from time to time, require delivery thereof.

IX. The Court in which the Company is registered may, on the petition of any Shareholder, enforce the performance by the Directors of any of their duties under this Act, or of the deed of partnership, which it may appear just to enforce in a summary manner, after due notice given to such Directors; and disobedience to any order of the Court in this behalf shall be deemed a contempt of Court, and shall be punishable accordingly.

X Within one week before or after the first day of January and first day of July, in every year after the registry of the said Company, a memorial shall be filed in the Court in which such Company is registered, setting forth in alphabetical order, the names of all the partners, with their several additions, places of abode, and the number of shares belonging to each, and the names of the Directors of the Company, and also the names of the servants of the Company to be deemed the Registered Officers, within the Presidency in which such Court is situated; and, as often as a change in the Direction or of any Registered Officer shall take place by death, resignation, disqualification, or otherwise, a memorial of such change shall be forthwith filed in the Supreme Court.

XI. When any share is held by two or more persons, the name, addition, and place of abode of every such person shall be separately entered in every such memorial, and each of such persons shall be considered as jointly and separately liable for the engagements of the Company on account of such share; unless when such share belongs to any other Registered Company, in which case the name of such Company

shall be entered in the memorial instead of the names of the partners thereof.

XII. The several memorials shall be signed by two or more of the Directors of the Company, and verified by affidavit of one of them before the Master of the Supreme Court or a Commissioner by the said Court appointed.

XIII. An office copy of any such registered deed, or copy thereof filed as aforesaid, or memorial or of any part thereof, issued under the seal of the Court, shall be received in evidence before all Courts, as proof of the contents thereof, and no proof shall be required that the persons by whom any such memorial purports to be verified were Directors of the Company.

XIV. The Keeper of the Records of the Supreme Court shall allow all persons, at reasonable times, to inspect any such deed, copy, or memorial, and shall furnish office copies of any such deed, copy, or memorial, or any part thereof, under the seal of the Court, to all persons applying for the same.

XV. Such fees shall be paid for registering every such deed and memorial, and for allowing inspection and furnishing copies thereof, or of any part thereof, as the Judges of the Supreme Court, with the approval of the Governor or Governor in Council, from time to time, shall establish.

XVI. Subject to the provisions of the deed of partnership, every Shareholder in any such Registered Company may sell and transfer all or any of his shares therein by a deed according to the form in the Schedule annexed to this Act, or to the like effect, and the same, when duly executed, shall be delivered to a Registered Officer, who shall make an entry thereof in a book to be called the Register of Transfers, and shall endorse such entry on the deed of transfer, and deliver an acknowledgement of the receipt thereof to the purchaser, for which entry and endorsement the Company shall be entitled to have a fee not exceeding One Rupee; and until such transfer is so entered and endorsed the purchaser of the share shall not be entitled to receive any share of the profits of the business, or to vote in respect of such share.

XVII. No Shareholder shall be entitled to transfer any share until he has paid all calls at that time due on every share held by him.

XVIII. On the transfer of any share in a Registered Company being executed and notified in the manner required by the Deed of the

Company and this Act, the party making or the party accepting such transfer may require a memorial thereof to be made forthwith, and filed with the memorial of the names of Shareholders of the Company; and in case such memorial shall not be made and filed within one month after such requisition, the Supreme Court shall, on the petition of either of the said parties and on notice being given to the Directors of the Company, order such memorial to be made and filed, in case the Court shall be satisfied of the validity of such transfer; and every such memorial of transfer shall be taken thenceforth as part of the last general memorial.

XIX. No transfer shall be deemed complete, nor shall any Shareholder be discharged from any liability by the transfer of any share, until the memorial of such transfer shall have been filed as aforesaid, or until the purchaser has been substituted as a partner instead of the seller in one of the general half yearly memorials, in respect of the share or shares so transferred; and no person shall be liable as a Shareholder by reason merely of having accepted such transfer, until such memorial of the transfer shall be filed, or until he is entered as a partner in one of the general half yearly memorials.

XX. The Supreme Court in which any Company is registered may, on petition and on notice being given to the Directors, and to every other person to whom it shall appear to the Court that notice ought to be given, order any memorial filed under this Act to be corrected, in case of any material error of omission or otherwise, either in the lists of Shareholders or any other respect whatever.

XXI. The Directors may close the Register of Transfers for a time, not exceeding fourteen days before the payment of any dividend, and may fix a day for closing the same, of which seven days' notice shall be given in the *Government Gazette*.

XXII. The Company shall not be bound to see to the execution of any trust, whether express, implied, or constructive, to which any share is subject; and the receipt of the person in whose name any share stands in the books of the Company, or in the case of a minor, idiot, or lunatic, the receipt of the guardian or committee, or where the share stands in more than one name, the receipt of the person whose name stands first, shall be a sufficient discharge to the Company for any dividend or other sum of money payable on account of such share, whether or not the Company had notice of any such trust; and the Company shall not be bound to see to the application of any money paid on such receipt.

XXIII. Every such Registered Company shall sue and be sued by the registered name of the Company, as if it were an incorporated Company, and in no other manner; and service of any writ, order, or other process or notice on a Registered Officer of the said Company, at one of their usual places of business, or, if he cannot be found, in such manner as the Supreme Court in which such Company is registered shall order and direct, shall be good service on such Company.

XXIV. In any indictment or information for any theft or embezzlement of the monies or goods of any such Registered Company, or for any other offence committed against them or their property, or with intent to defraud or injure them, and in any proceeding in which it may be necessary to name them, they may be described by the registered name of the Company.

XXV. In any suit brought or proceeded with in the name of any such Registered Company, the plaintiffs shall be liable to be nonsuited, unless it is proved on their part that the suit is brought or proceeded with by direction of one or more of the partners appointed at a general meeting to be Directors of the Company, or by the direction of some person or persons having authority from the Directors to bring suits on behalf of the Company; and such proof may be given either by filing a warrant to sue signed by such Director or person, and supported by affidavit, or in such other manner as shall be consistent with the practice of the Court.

XXVI. No such suit, indictment, information, or other proceeding shall abate or be prejudiced by any change of the persons constituting the partnership, or of the Directors, or of the person having such authority.

XXVII. No suit by or against the Company shall be in any wise affected by the defendant or plaintiff therein being or having been a Shareholder of the Company: but any such Shareholder, either alone or jointly with any other person or persons as against the Company, or the Company as against any such Shareholder, either alone or jointly with any other person or persons, shall have the same right of action, remedy, and execution, in respect of any claim whatever, as the Shareholder or Company would have had, if the Shareholder had been a stranger.

XXVIII. All unpaid capital, or money due on account of the Capital Stock of the Company, shall be deemed a debt due to the Company, and shall be recoverable as such by the description of money due by the defendant, on account of a share in the business of the Company.

XXIX. A Registered Company, which shall commit any act which is hereby deemed an act of forfeiture, shall be liable to the jurisdiction of the Court for Relief of Insolvent Debtors, and a petition to the said Court in the case of such Company shall be prosecuted in the same manner as petitions in the case of Insolvent Debtors: and in case of an adjudication of forfeiture the law and practice of the said Court, with such alterations of the practice as, from time to time, shall seem to the Court necessary, shall be extended to the case of such Company, as in the case of an adjudication of insolvency in the case of an Insolvent Debtor.

XXX. An adjudication of forfeiture against any such Company shall not be deemed an act of insolvency of the individual members of such Company.

XXXI. An adjudication of forfeiture against such Company shall convey to the Assignee or Assignees appointed the whole of the real and personal property of the said Company, and all debts, causes of suit, and possibilities of interest, with the like power to sue either at Law or in Equity, as fully and effectually as an adjudication of insolvency against any individual could convey the same by any of the laws now in force or hereafter to be in force affecting insolvents.

XXXII. Whenever an adjudication of forfeiture shall have issued against any such Company, the Assignee or Assignees from time to time may compromise any debts or claims belonging to the said Company, and may grant discharges to the parties to such compromises.

XXXIII. Whenever the Directors of any Registered Company shall be unable to meet the engagements of the Company, they shall at a special meeting of the Directors convened for that purpose, and by such a number and majority of them as would be sufficient for any ordinary business of the Company, declare such inability by a resolution, which being signed by the Directors by whose votes it has been carried, shall be forthwith published in the *Government Gazette* of the Presidency; and for two calendar months after the publication of such resolution, but not later, such resolution shall be deemed an act of forfeiture of their privileges for the sole purpose, nevertheless, of supporting a petition to the Court for Relief of Insolvent Debtors, in case a petition shall be filed within two months after the date of the publication thereof as aforesaid, but not afterwards.

XXXIV. Any Registered Company which shall not, within two months after judgment and the issue of a writ of execution thereof, satisfy such judgment, shall be deemed to have committed an act of forfeiture, and thereupon the execution creditor, or any creditor to whom such Company shall be indebted to the amount of Company's Rupees Five hundred, or

any two creditors to whom such Company shall be indebted to the amount of Company's Rupees Seven hundred, or any three or more creditors to whom such Company shall be indebted to the amount of Company's Rupees One Thousand, may present a petition to the Court for the Relief of Insolvent Debtors at the Presidency within which such Company is registered, stating the amount due to such creditor or creditors, and the registry and act of forfeiture of such Company, and praying such Court would proceed as if such Company or the Shareholders thereof had petitioned such Court for relief under the laws in force for Relief of Insolvent Debtors; whereupon the Court shall enquire into the truth of such petition, and if such Court shall be satisfied thereof, such Court shall adjudge the same to be true, and that such Company has committed an act of forfeiture, and proceed thereon pursuant to the provisions of the Act for the Relief of Insolvent Debtors in India, and of this Act.

XXXV. Upon the filing of any petition to the Court for Relief of Insolvent Debtors in the case of any Registered Company, whether by a Shareholder or by a Creditor, the Court shall make the like vesting order for the purpose of vesting all the real and personal estate of the Company in the Official Assignee, and such other orders ancillary thereto as the Court might make in case of an individual insolvent debtor, and all the powers and authorities of the said Court, and all the laws relating to insolvent debtors shall, so far as the circumstances of the case admit, be extended to all such Registered Companies.

XXXVI. Whenever there shall be an adjudication of forfeiture against any Registered Company, the Directors of such Company at the time of filing the petition shall be subject to the orders of the said Court for the Relief of Insolvent Debtors, and it shall be their duty individually or collectively to prepare such balance sheet and other accounts as the Court may deem necessary, and to assist the Official Assignee in the examination of and closing all the affairs of the Company; and every Director and person who shall at any time have been a Director of the Company shall be liable to be examined upon oath, and to make full and true discovery of the estate and effects, past and present, and business, affairs, and interests of the Company, either orally or upon written interrogatories, as the Court may order.

XXXVII. Upon the adjudication of forfeiture against any Registered Company, the claims of any creditor of the Company against the Shareholders shall not be enforced otherwise than under this Act, except in respect of any special contract, or any debt or liability contracted by any Shareholder in his individual capacity, otherwise than by taking a share in the business of the Company.

XXXVIII. As soon after an adjudication of forfeiture against any Company as the Official Assignee can make an approximate estimate of the amount of the debts and other claims against the Company, or of any certain portion thereof, the said Court, on the application of the Official Assignee, shall order such sum to be raised by contribution of the Shareholders as may appear to the said Court necessary for the satisfaction of such debts and claims; and may from time to time order such further sum to be raised in like manner as may appear necessary; and upon obtaining such order the Official Assignee shall assess the said sum ratably amongst the Shareholders according to the number of shares held by them respectively, and immediately proceed to collect the same; and monthly or oftener shall report defaulters to the said Court, together with the amounts at which they were assessed respectively, and thereupon the said Court, if satisfied that the said assessment is just, shall order the payment of such assessment within such time and upon such notice or demand by advertisements or otherwise, as the Court may see fit; and non-payment thereof within the time ordered by the Court shall be an act of insolvency of the defaulting Shareholders; and the said Assignee, or any person being a creditor of the said Company to the amount of Company's Rupees Five Hundred, or any two creditors to whom such Company shall be indebted to the amount of Company's Rupees Seven Hundred, or any three or more creditors to whom such Company shall be indebted to the amount of Company's Rupees One Thousand, may present a petition to the Court for the Relief of Insolvent Debtors of the Presidency within which the said Company is registered, stating such act of insolvency, and praying that such defaulting Shareholder may be adjudged to have committed an act of insolvency, and upon such petition being duly verified, the Court shall be empowered to adjudge that such defaulting Shareholder has committed an act of insolvency, and the Court for Relief of Insolvent Debtors in the Presidency in which the defaulter is resident may proceed thereon according to the provisions of the Act for the Relief of Insolvent Debtors in India.

XXXIX. The Shareholders of untransferred shares whose names are in the last general memorial, including those (if any) who have been subsequently returned as Shareholders of the Company, shall be liable and be called upon in the first instance to satisfy the debts of the Company; but in case it shall appear to the said Court that full satisfaction cannot, within such time as may appear reasonable to the Court, be otherwise obtained, such other persons as at any time within three years next before the adjudication of forfeiture shall have been returned in any memorial as Shareholders of the Company shall be liable to contribute to such amount collectively as the Court may order; and, upon every order

for contribution from former Shareholders, the Official Assignee shall proceed as hereinbefore prescribed in the case of present Shareholders.

XL. In fixing the sum to be raised from time to time by assessment of the Shareholders it shall be in the discretion of the Court to make such allowance for unrealized assets of the said Company, as the Court may deem just.

XLI. No such assessment shall be deemed erroneous or set aside merely by reason of its being in excess of other assessments ratably considered, if the same be needed for satisfaction of any creditor of the said Company, and any such assessment may be reduced, when expedient, by order of the Court.

XLII. If on realizing the assets of the Company a balance shall remain, after payment of the debts and other claims against the Company, the said Court may order the repayment out of such balance, first, of such sums or ratable parts thereof as have been paid by any Shareholders not liable in the first instance to satisfy the debts of the Company; and secondly, of such sums or ratable parts thereof as have been paid by any other Shareholders in excess of their ratable liability, according to the number of their shares, regard being had to the number of other assessed Shareholders; and lastly, if such a balance shall not thereby be exhausted, the said Court may order the distribution of the remainder thereof among the Shareholders by the Official Assignee upon a scheme or plan to be submitted to and approved by the said Court, or may order the same to be paid to the Accountant General of the said Court to the credit of the said Company, to abide such proceedings as any parties interested therein may take at Law or in Equity: and any order of the said Court for the disbursement of money shall be a sufficient authority to the said Official Assignee to protect him against all claims in respect of such disbursement by any Shareholder or Creditor.

XLIII. If any Registered Company which carried on its business before registration shall incur an adjudication of forfeiture before it has been registered for three years, such persons as are not registered Shareholders but were Co-partners or Shareholders thereof at any time before the registration of the Company, but within three years before the filing of the petition for relief, shall be liable to contribute to the debts of the Company in like manner as if they were on the first memorial of the Shareholders of the Company.

XLIV. Whenever it shall appear to the Court for Relief of Insolvent Debtors that the aid of a Court of Equity will be necessary for closing

the affairs of any Registered Company, against which an adjudication of forfeiture has been made, the said Court may order the Official or other Assignees to take proceedings in the Supreme Court in Equity, by bill, or by petition for the like relief as might be had by bill, and the said Supreme Court shall have power on such petition to make such original and subsequent orders as upon a bill filed, and such orders shall have the same effect and be executed in the same manner as decretal orders.

XLV. The said Supreme Court may likewise on petition of any Shareholder having any claim against any other Shareholder, in respect of the affairs of the Company, make such order as it may deem just for settling such claim between such Shareholders.

XLVI. Whenever any Shareholder in a Registered Company, which shall have been adjudged to have incurred forfeiture, shall be adjudged an insolvent, either on his own petition, or under the provisions aforesaid, or otherwise, the Assignee or Assignees of such Registered Company, shall be entitled, from time to time, to rank as a creditor on the estate of such insolvent, for such ratable contributions, as the Court for the Relief of Insolvent Debtors shall, from time to time, appoint to be paid by such insolvent Shareholder.

XLVII. After the affairs of any such Registered Company against which there has been an adjudication of forfeiture are closed under this Act, the Company shall forfeit all its privileges under this Act, and the partnership shall be dissolved.

SCHEDULE.

I ——— of ——— in consideration of ——— paid to me by ——— of ——— do hereby transfer to the said ——— the share (or shares) numbered ——— in the business called The ——— to hold unto the said ——— his [or her] Executors, Administrators and Assigns, subject to the Conditions of the Partnership Deed of the ——— Company, registered in the Supreme Court of Judicature at ——, and the other Conditions in which I held the same: And I the said ——— do hereby agree to take the said share (or shares) subject to the same Conditions: as witness our hands and Seals, the ——— day of ——— in the year ———.

Witness

A. B. (L. S.)

C. D. (L. S.)

ACT No. XLV. OF 1850.

Passed on the 27th of December 1850.

Declares that Coroner may hold an inquest over a corpse lying within his jurisdiction though the cause of death arose beyond it.

An Act to declare the Law as to the jurisdiction of Coroners.

For removal of doubts as to the jurisdiction of Coroners, It is declared and enacted as follows:

I. In all cases in which an inquest ought to be holden on any body lying dead within the jurisdiction of any Coroner, appointed for any place within the Territories under the Government of the East India Company, the Coroner having jurisdiction where the body is lying dead has power to hold and shall hold such inquest; and every such inquisition taken before him is valid, whether or not the cause of death arose within his jurisdiction.

ACT No. VIII. OF 1851.

Passed on the 4th of July 1851.

An Act for enabling Government to levy Tolls on public Roads and Bridges.

Whereas it is expedient to enable Government to levy Tolls upon Roads and Bridges, It is enacted as follows:

Certain Acts repealed.

I. Acts II. 1837 and VIII. 1838 are repealed, but not so as to revive any Regulation or Act thereby repealed.

Government may levy road or bridge tax at rates not exceeding those specified.

II. The Governor of the Presidency of Fort William in Bengal, the Lieutenant Governor of the North Western Provinces of Bengal, the Governor of the Presidency of Fort St. George in Council, and the Governor of the Presidency of Bombay in Council, may cause such rates of Toll, not exceeding the rates mentioned in the Schedule annexed to this Act, as they respectively think fit, to be levied upon any road or bridge which has been, or shall hereafter be made or repaired at the expense of the Government; and may place the collection of such Tolls under the management of such persons as may appear to them proper: and all persons employed in the management and collection of such Tolls shall be liable to the same responsibilities, as would belong to them, if employed in the collection of the Land Revenue.

Liability of person appointed to collect it.

III. In case of non-payment of any such Toll on demand, the Officers appointed to collect the same may seize any of the carriages or animals on which it is chargeable, or any part of their burden of sufficient value to defray the Toll; and, if any Toll remains undischarged for twenty-four hours, with the cost arising from such seizure, the case shall be brought before the Officer appointed to superintend the collection of the said Toll, who may sell the property seized for discharge of the Toll, and all expenses occasioned by such non-payment, seizure, and sale, and cause any balance that may remain to be returned, on demand, to the owner of the property; and the said Officer, on receipt of the property, shall forthwith issue a notice that, at noon of the next day, exclusive of Sunday, or any close holiday, he will sell the property by auction. Provided that if, at any time before the sale has actually begun, the person whose property has been seized shall tender the amount of all the expenses incurred, and of double the Toll payable by him, the said Officer shall forthwith release the property seized.

In case of non-payment carriage &c. to be seized and sold;

But on tender of payment to be released.

IV. No Tolls shall be paid for the passage of Troops and Military Stores and Equipages on their march, or of Police Officers on duty, or of any person or property in their custody; but no other exemption from payment of the Tolls levied under this Act shall be allowed.

Troops, Military stores &c. to be exempt from toll.

V. All Police Officers shall be bound to assist the Toll Collectors, when required, in the execution of this Act; and, for that purpose, shall have the same power which they have in the exercise of their common Police duties.

Police officers to assist in execution of this Act.

VI. Every person, other than the persons appointed to collect the Tolls under this Act, who shall levy or demand any Toll on any public road or bridge, or for passing through any bazar situated thereon, and also every person who shall unlawfully and extortionately demand, or take any other, or higher Toll than the lawful Toll, or under colour of this Act seize or sell any property, knowing such seizure or sale to be unlawful, or in any manner unlawfully extort money, or any valuable thing from any person under colour of this Act, shall be liable on conviction before a Magistrate, to imprisonment for any term not exceeding six Calendar months, or to fine not exceeding two hundred Rupees, any part of which fine may be awarded by the Magistrate to the person aggrieved: but this remedy shall not be deemed to bar, or affect his right to have redress by suit in the Civil Court of the Zillah.

Penalties for unlawful collection of tolls and seizures.

Fine may be awarded to party aggrieved. But the remedy provided not to bar a civil suit.

Table of Tolls and penalties to be put up in a conspicuous place.

VII. A Table of the Tolls authorized to be taken at any Toll-gate or Station shall be put up in a conspicuous place near such gate or station legibly written or printed in English words and figures and also in those of the Vernacular language of the district, to which shall be annexed written or printed in like manner, a statement of the penalties for refusing to pay the Tolls and for taking any unlawful toll.

Tolls to be public revenue and to be applied to maintenance of roads &c.

VIII. The Tolls, levied under this Act, shall be deemed public revenue; but the net proceeds thereof shall be applied wholly to the construction, repair and maintenance of roads and bridges, within the Presidency in which they are levied.

SCHEDULE.

On every four wheeled Carriage on Springs, ...	2 Rupees.
On every two wheeled Carriage on Springs (except Native Hackeries)...	1 Rupee.
On every Native Hackery on Springs, ...	2 Annas.
On every four wheeled Carriage without Springs, ...	6 Annas.
On every two wheeled Carriage without Springs, ...	4 Annas.
On every Cart and Hackery not on Springs, and having wheels of less diameter than three feet six inches and tyres less in breadth than three inches, ...	8 Annas.
On every Cart and Hackery not on Springs and not having wheels of less diameter than three feet six inches, and tyres less in breadth than three inches, ...	2 Annas.
Buffaloes or Bullocks per head,...	6 Pie.
On every Elephant, ...	1 Rupee.
On every Camel, ...	4 Annas.
On every Horse, ...	1 Anna.
On every Tattoo, ...	6 Pie.
On every score of Sheep or Goats, ...	2 Annas.
On every herd of Swine per hundred, ...	4 Annas.
On every Mule, ...	3 Pie.
On every Ass, ...	2 Pie.
On every Palanquin or Tonjon with Bearers,...	1 Rupee.
On every Palna or small Native Palanquin with Bearers,... ...	4 Annas.
On every Native Dooly with Bearers,...	2 Annas.
On every person carrying a load for hire,...	2 Pie.

N. B.—Animals drawing any Vehicle for which toll can be demanded are not to be also charged with toll.

ACT No. X. OF 1851.(a)

Passed on the 18th of July 1851.

To amend Act XX. 1841 for the Administration of personal Estate of deceased persons.

For amendment and extension of the power to grant Certificates of Administration of the personal Estate of deceased persons under Act XX. 1841, It is enacted as follows:

In case of dispute between joint representative proprietors of public Securities, Zillah Judge may grant certificate to official Trustee who shall act as agent.

I. In the case of disputes among persons, claiming to be jointly entitled to be proprietors of any public Securities of the East India Company, as the representatives of any deceased person, the District or Zillah Judge, whenever sufficient cause shall be shewn to him, and on the request of any such claimant, may grant a Certificate of Administration of the personal Estate of the deceased, so far as concerns the said Securities, according to Act XX. 1841, to such person as shall be from time to time appointed by the Governor of Bengal, and Governors of Madras and Bombay in Council respectively, to act as Trustee under this Act; and shall specify in such Certificate the several persons appearing to him to be such proprietors, and their several shares; and the said Trustee, by virtue of such Certificate, shall be entitled to receive and give discharges for the Interest accruing due on such Securities; and shall account for, and pay the sum, to the several persons specified in the Certificate to be thereunto entitled, according to the shares therein set forth; and shall be empowered to act in all other respects concerning the said Securities as Agent for such persons; and shall be entitled to the same rate of Commission upon all such transactions as is allowed to the Government Agent for the time being on the like transactions, as Agent of the public creditors of the East India Company, by any regulations from time to time made by the Governor General of India in Council: Provided nevertheless that the right of any other person to recover the whole or any part of the monies so paid, by regular suit against all or any of the persons to whom the same have been paid, shall not be affected by this Act.

Trustee to receive Commission.

But rights of other claimants not to be affected.

(a) This Act is explained and amended by Act VIII. of 1854.

In event of dispute not being settled in two years, Trustee may apportion the principal ratably.

II. If any such disputes, among persons claiming to be proprietors of public Securities of the East India Company, are not ended within two years from the date of the Certificate of Administration granted by any District or Zillah Judge, the said Trustee may apportion the principal sum of the said Securities ratably among the parties appearing from the aforesaid Certificate to be proprietors thereof, and may apply for and receive new Securities from the proper Officer appointed to issue the same, in the respective names of the several parties certified to be entitled thereto; provided that such new Securities shall be issued only according to the rules in use for the regulation and issue of such public Securities; and the receipt of the said Trustee for such new Securities, by endorsement on the old Securities or otherwise, shall be a legal discharge to the East India Company against the disputing parties claiming to be entitled to the several amounts for which such Securities shall be issued: Provided always that, if the amount of any Securities in dispute or any part thereof, shall not be sufficient to admit of their ratable division according to the Rules applicable to the issue of such Securities, the said Trustee may sell, and dispose of the disputed Securities, or such part as shall be necessary under this provision, and apportion the proceeds thereof among the parties entitled to receive the same.

Certificate under this Act to annul previous Certificate as respects other shares.

III. Every such Certificate, granted to the Trustee appointed under this Act, shall be taken to supersede and annul any previous Certificate given of a half or any other share in the said personal Estate, so far as concerns the said Securities.

British representatives in Foreign States may grant Certificate.

IV. As regards Residents in Foreign States, out of the jurisdiction of British Courts of Justice, a Certificate of Administration to personal Estates granted by the British Representative accredited to that State, or as regards the Residents in any district to which Act XX. 1841 does not extend, such Certificate granted by the British Officer in that district, holding the highest executive authority, shall have the same effect, as regards public Securities of the East India Company, as a certificate granted to a Native subject of Her Majesty under the provisions of Act XX 1841, as amended by this Act.

Act to be construed as part of XX *of* 1841.

V. This Act shall be construed with and as part of Act XX. 1841.

ACT No. XII. OF 1851.

Passed on the 14th of November 1851.

An Act for securing the Land Revenue of Madras.

Recital.

Whereas it is expedient that the land revenue accruing due to the East India Company at Madras, within the limits of the Town of Madras as defined in Section XII, Regulation II. 1802, of the Madras Code, should be ascertained and collected in as summary a manner as in other parts of the territories under the Government of the East India Company, It is enacted as follows :—

Assessable lands not assessed to be assessed at customary rates.

I. All assessable lands not the property of the East India Company, within the limits of the Town of Madras, as defined in Section XII., Regulation II. of 1802, of the Madras Code, of which the rate of assessment is not known, or which have not heretofore been assessed, shall be assessed at the rates customarily charged upon lands of a similar description in the neighbourhood, according as they may be situated respectively within or without the walls of Black Town.

Lakiraj lands in possession for 60 years to be valid and none else.

II. Lakiraj (*a*) tenures of land in Madras, of which uninterrupted possession has been held under alleged grants, exempt or partially exempt from assessment for sixty years, shall be valid, no other lakiraj tenures of land in Madras shall be deemed valid, unless the same are or shall be held under an unexpired grant from the British Government.

Collectors to assess lands subject to appeal to Board of Revenue.

III. The Collector of Madras shall determine the rate of assessment to be laid on assessable land under Section I. of this Act, with reference to the rate assessed upon other land of a similar description in the neighbourhood, subject to an appeal to the Board of Revenue, to be made within six months from the notification by the Collector of the assessment fixed by him. The decision of the Board of Revenue upon such appeal shall be final.

Land to be measured for fixing assessment &c.

IV. The Collector may order any assessable land, or land already assessed, or charged with a rent payable to the East India Company, to be measured, for the purpose of determining the amount of assessment to be imposed, or, in the case of land already assessed or charged with a rent, for

(*a*) *Lakkiraj* vernacularly, sometimes *Lakharaj*, corruptly *Lakerage*, *Lackiraz*, Rent-free land, applied to land exempted for some particular reason from paying any part of the produce to the State.—*Professor Wilson.*

the purpose of ascertaining whether the actual dimensions, and the dimensions upon which the amount of assessment or rent, was calculated, correspond.

Assessment to be abated when in excess.

V. Whenever, upon the measurement of any land under the preceding Section, it shall be found that the dimensions upon which the amount of assessment or rent was calculated exceed the actual dimensions, a proportionate abatement shall be made for the excess, on the demand of the party entitled to claim it.

And increased when below the rate chargeable for the actual dimensions.

VI On the other hand, when the actual dimensions exceed the dimensions upon which the amount of assessment or rent was calculated, the excess shall be charged at the same rate as the rest of the land, the possession being left undisturbed. Provided that when it shall appear that the excess has been caused by the surreptitious usurpation of ground belonging to another tenure, the act of the Collector in assessing it shall not prejudice the holder of such other tenure in any effort he may make to recover the ground usurped from it. An appeal shall lie to the Board of Revenue against any extra assessment or additional rent charged by the Collector for excess by measurement under this Section, if preferred within six months from the date of the Collector's order. Upon such appeal the decision of the Board of Revenue shall be final.

Appeal to lie to Board of Revenue

Rent may be recovered by distress of goods &c. of owner or occupier &c.

VII. If any owner of assessed land, or any person holding land subject to a rent payable to the East India Company, shall, upon the written demand of the Collector, refuse or neglect to pay any sum at which the land is assessed, or with which it is charged as rent, the Collector may levy the same by distress and sale of the goods and chattels, wherever found, of such owner or lessee; or, after written demand upon the tenant or occupier, and on his refusal or neglect to pay the sum lawfully demanded, by distress and sale of any goods and chattels found upon the land, in the manner appointed for regulating distresses for small rents in Calcutta by Act VII. 1847,(*b*) extended to Madras by Section 89, Act IX. 1850, and for the purpose of any such distress and sale, the Collector shall have all the powers of a Judge of the Court of Small Causes under Section 89, Act IX. 1850 aforesaid, and the Collector shall have power to appoint any of his Officers to perform the duties of Bailiffs and Appraisers, and of the Chief Clerk of the said Court,

Appointment and powers of Bailiffs and Appraisers.

(*b*) See note on page 52 of this work.

as provided by the said Act VII. of 1847, and all the provisions of said Act relating to the Commissioners for the recovery of small debts and their Court, shall be deemed to apply to the said Collector and his Office in the execution of this Act.

Tenant may deduct tax paid by him from rent.

VIII. In the case of payment by any tenant or occupier not holding immediately under the East India Company, or the seizure and sale of his property, he may deduct the amount of the payment or levy from the next payment of rent to his landlord.

Priority of E. I. Company's claim.

IX. The claim of the East India Company for land revenue or rent has priority over all other claims upon the land, or to which property distrained upon the land may be liable.

Distress not to be stayed though liability be disputed.

X. If the Collector's claim of arrears of rent is disputed, the process of distraint and sale shall not be stayed, unless the amount claimed be lodged with the Collector.

Rent not recoverable after six years.

XI. Arrears of rent or revenue due to the East India Company are recoverable within six years next after the same are due, or next after an acknowledgment of the same in writing has been given by the person by whom the same is payable, or his Agent, and not afterwards.

How claim to hold land lakiraj shall be disposed of.

XII. When a claim to hold land lakiraj, or free of assessment, shall be set up under this Act, the Collector shall inquire into the claim; taking such evidence as the claimant may offer, or the public records supply; and shall report his proceedings in the case for the consideration of the Board of Revenue. If the Board of Revenue are satisfied of the validity of the claim, they shall make an order accordingly, and such order shall be final. If they are not satisfied of the validity of the claim, they shall direct the Collector to assess the land, leaving the claimant to contest the Collector's demand in the Civil Courts, as herein provided.

Subject to civil suit.

Punishment for obstructing Collector or his subordinates.

XIII. Any person obstructing or molesting the Collector, or any of his subordinate officers, in the execution of their duty, shall, on conviction before a Magistrate of the Town of Madras, be liable to a fine not exceeding

five hundred rupees, and, in default of payment, to imprisonment in the common gaol for a term not exceeding six months, or until the fine is sooner paid.

Punishment for contempt, subject to appeal to Revenue Board.

XIV. The Collector may punish any contempt committed in his presence in open cutcherry or office, by fine not exceeding two hundred rupees, and, in default of payment, by imprisonment in the common gaol for a term not exceeding one month. From every such order of fine or imprisonment an appeal shall lie to the Board of Revenue, whose decision shall be final.

Collector to be under control of Revenue authorities.

XV. The Collector shall act in the execution of this Act, under the usual control of the superior revenue authorities.

Ground rents to be deemed Revenue within 21 Geo. 3. Cap. 70.

XVI. The ground rents payable to the East India Company from lands in Madras are revenue within the meaning of the Act of Parliament, 21 Geo. III. Cap. 70; and the Supreme Court of Judicature established by Royal Charter at Madras has not any civil jurisdiction concerning the said ground rents, or concerning any thing ordered or done in the assessment or collection thereof.

Action for trespass &c. to be brought in Chingleput Court within 6 months.

XVII. All actions concerning any trespass or injury committed by any revenue officer, acting under colour of this Act, or concerning any claim in respect of any goods taken by, or any monies paid to, any revenue officer under this Act, or concerning any claim of rent or revenue on the part of the East India Company under this Act, shall be tried and determined in the Civil Courts established by the East India Company, in the Zillah of Chingleput, notwithstanding that the cause of action in respect of which such action is brought, arose, or the defendant therein reside, within the limits of the Town of Madras, and every such action shall be brought within six months after the cause of action arose, and not afterwards.

"Collector" &c. defined.

XVIII. The words "Collector" and "Board of Revenue" used in this Act, shall be taken to mean any person or persons lawfully appointed to exercise the powers vested in the Collector and Board of Revenue respectively under this Act.

ACT No. XVI OF 1851.

Passed on the 26th of December 1851.

An Act for the trial of Receivers of Stolen Property.

For the trial of Receivers of Stolen Property where the principal is tried, or where the Property is found in their possession, or where the receiving takes place, It is enacted as follows.—

Receivers of stolen property where to be tried.

1. Every person who receives any Chattel, Money, Valuable Security, or other Property whatsoever, knowing the same to have been feloniously or unlawfully stolen, taken, obtained, or converted, whether charged as an accessory after the fact to the felony, or with a substantive felony, or with a misdemeanor only, may be dealt with, indicted, tried, and punished in any place in which he shall have, or shall have had, any such property in his possession, or in any place in which the party guilty of the principal felony or misdemeanor may by law be tried, or in the place where he actually received such property.

ACT No. IV OF 1852.

Passed on the 16th of January 1852.

An Act to amend the law relating to emigrant vessels and the emigration of labourers.

Preamble.

Whereas by Section VIII, Act XXI of 1844, it was among other things enacted, that no ship or vessel carrying emigrant labourers to Jamaica, British Guiana, or Trinidad, should sail from Calcutta, Madras, or Bombay, at any other time than between the 30th day of any September and the 1st of March next thereafter ensuing; and whereas the said provision was repealed by Act XXV of 1845, so far as regarded vessels carrying emigrant labourers from Madras, and has been found inconvenient for vessels carrying emigrant labourers from Calcutta: and whereas it is expedient to amend the law relating to the height between decks in emigrant vessels; and whereas by Section I, Act XXI of 1843, it was enacted, that emigration to Mauritius should only lawfully take place under the provisions of Act XV of 1842, from the Port of Calcutta; and whereas by Act VIII of 1847, the emigration of labourers from the Port of Madras to Mauritius was declared lawful, and it is

now expedient to repeal Section I, Act XXI. of 1843, and to render lawful the emigration of labourers from the Port of Bombay to Mauritius, It is enacted as follows:

Partial repeal of Act XXI, 1844.

I. So much of Act XXI. of 1844, as is hereinbefore recited, is repealed, so far as regards ships or vessels carrying emigrant labourers from Calcutta.

Time of sailing.

II. No ships or vessels carrying emigrant labourers to Jamaica, British Guiana, or Trinidad, shall sail from Calcutta at any other time than between the thirty-first day of any August and the 1st day of March next thereafter ensuing.

Accommodation to be provided.

III. No ship or vessel carrying emigrants and having more than one deck, shall have less than the height of five feet and six inches at the least between decks, and in case such ship or vessel shall have only one deck a platform shall be laid beneath such deck in such manner as to afford a space of the height of five feet and six inches at the least, and such platform shall not be so laid as that the lower beams shall project above the same, and whatever may be the tonnage of the ship or vessel, no greater number of emigrant labourers shall be taken on board such ship or vessel than shall be after the rate of one emigrant labourer for every seventy-two cubic feet of space between decks, or between the deck and platform, unoccupied by goods or stores not being the personal luggage of such emigrant labourers, any thing in Act XV. of 1842, or in the Schedule therein mentioned, to the contrary notwithstanding.

Emigration to Mauritius from Madras and Bombay permitted.

IV. Section I, Act XXI. of 1843 is hereby repealed, and from and after the passing of this Act, emigration to Mauritius may lawfully take place under the provisions of Act XV. of 1842 from the Port of Bombay, as well as from the Ports of Madras and Calcutta.

Protector to countersign certificates.

V. The Governor in Council of Bombay may nominate a proper person to act as Protector of Emigrants at Bombay, and no emigrant shall be permitted to embark without a certificate from the Agent appointed by the Government of Mauritius, countersigned by the Protector, to the effect that such person has been engaged by such Agent, on the part of the said Government, as an emigrant to Mauritius.

ACT No. V OF 1852.

Passed on the 16th of January 1852.

An Act for giving effect to the provisions of an Act of Parliament, passed in the 15th year of the reign of Her present Majesty, entituled "An Act for Marriages in India."

Preamble.

Whereas by an Act passed in the Session of Parliament holden in the Fourteenth and Fifteenth years of the reign of Her present Majesty entituled, "An Act for Marriages in India," it was enacted (among other things) that it should be lawful for the Governor General of India in Council from time to time, by laws and Regulations, (not inconsistent with the provisions of the said Act of Parliament,) to be made in the manner, and subject to the Provisions by law required in respect of laws and Regulations made by the said Governor General of India in Council, to provide for the inspection and publication of Notices of Marriage given under the said Act of Parliament, for the custody and protection from injury of Marriage Register Books, for appeals from and references in case of doubt by the Marriage Registrars in relation to Marriages forbidden or Protests entered under the said Act of Parliament, for fixing the hours between which Marriages might be solemnized under the said Act of Parliament, for appointing the Officers to whom Certificates were to be transmitted by the Marriage Registrars, and generally for giving effect to the provisions of the said Act of Parliament, It is hereby enacted as follows:

Form of notice and length of Residence necessary.

I. In every case of Marriage intended to be solemnized in India, after the first day of February next, under the Provisions of the said Act of Parliament, one of the parties shall give Notice in writing, in the form of Schedule A. to this Act annexed, or to the like effect, to any Marriage Registrar of the District within which the parties shall have dwelt for not less than five days, then next preceding, or, if the parties dwell in different Districts, shall give the like notice to a Marriage Registrar of each District, and shall state therein the name, and surname, and the profession, or condition of each of the parties intending marriage, the dwelling-place of each of them, and the time, not being less than five days, during which each has dwelt therein, and the Church, Chapel, or other building in which the Marriage is to be solemnized; provided that if either party shall have dwelt in the place stated in the notice during more than one Calendar month, it may be stated therein that he or she hath dwelt there one month and upwards.

Inspection of Notices.

II. The Marriage Registrar shall file all such Notices and keep them with the Records of his Office, and shall also forthwith enter a true copy of all such notices fairly into a book, to be for that purpose furnished to him by the Government, to be called the "Marriage Notice Book," and the Marriage Notice Book shall be open, at all reasonable times, without Fee, to all persons desirous of inspecting the same.

Publication of Notices.

III. The Marriage Registrars, or Registrar of all districts in the British Territories in India shall respectively publish all such Notices of Marriage given in their respective districts by causing a copy of such Notices to be affixed in some conspicuous place in their respective offices, or, where such Registrars are Ministers of the Christian Religion, ordained or otherwise set apart to the Ministry of the Christian Religion, such Notices shall be affixed in some conspicuous place in the Church or Chapel or place of worship in which such Ministers respectively officiate. When one of the parties intending Marriage (not being a widow or widower) is under twenty-one years of age, every Marriage Registrar shall, within twenty-four hours after the receipt by him of the Notice of such Marriage, send, or cause to be sent, by the Post or otherwise, a copy of such Notice to all the other Marriage Registrars (if any) in the same district, who shall likewise affix the same in some conspicuous place in their own Offices or Chapels as aforesaid.

Suspension of Certificate in the case of minors.

IV. Where by the oath or declaration required by the sixth Section of the said Act of Parliament, it appears that one of the parties intending Marriage (not being a widow or widower,) is under twenty-one years of age, the Marriage Registrar shall not issue his Certificate under the provisions of the second Section of the said Act of Parliament until the expiration of fourteen days after the entry of such notice of Marriage.

Supreme Court may order Registrar to issue his Certificate in less than fourteen days.

V. When one of the parties intending Marriage (not being a widow or widower) is under twenty-one years of age, and both parties intending Marriage are at the time resident in any of the Towns of Calcutta, Madras, or Bombay, and are desirous of being married in less than 14 days after the entry of such notice as aforesaid, it shall be competent for both parties intending Marriage to apply by petition to the Supreme Court of such Town, or any Judge thereof, for an order upon the Marriage Registrar to whom the notice of Marriage has been given, directing him to issue his Certificate at some

time before the expiration of the said fourteen days required by Section IV of this Act. And it shall be competent to the said Supreme Court, or any Judge thereof, on sufficient cause being shown, in their or his discretion, to make an order upon such Marriage Registrar, directing him to issue his Certificate, at any time to be mentioned in the said order, before the expiration of the said fourteen days required by Section IV. ; and the said Marriage Registrar, on receipt of the said order, shall proceed to issue his Certificate in accordance therewith.

Form of Certificate.

VI. The Certificate to be issued by the Marriage Registrar, under the provisions of the second Section of the said Act of Parliament, may be in the form of Schedule B. to this Act annexed, or to the like effect, and the Government of each Presidency or Place shall furnish to every Marriage Registrar, a sufficient number of Forms of Certificate.

Notices and Certificates to be translated to Native Christians.

VII. When any Native Christian about to be married, applies for or tenders a Notice of Marriage, or applies for a Certificate from a Marriage Registrar, such Marriage Registrar shall ascertain whether the said Native Christian understands the English language, and if he does not, the said Marriage Registrar shall translate such Notice or Certificate, or both of them, as the case may be, or shall cause the same to be translated, to such Native Christian, in the language of such Native Christian, or the said Marriage Registrar shall otherwise ascertain whether such Native Christian is cognizant of the purport and effect of the said Notice and Certificate.

How issue of Certificate may be forbidden.

VIII. Any person authorized in that behalf may forbid the issue of the Marriage Registrar's Certificate, by writing, at any time before the issue of such Certificate, the word "forbidden" opposite to the entry of the Notice of such intended Marriage in the Marriage Notice Book, and by subscribing thereto his or her name and place of abode, and his or her character, in respect of either of the parties, by reason of which he or she is so authorized, and the said word "forbidden," so written and subscribed as aforesaid, shall be deemed a Protest, within the meaning of the seventh Section of the said Act of Parliament.

References by the Registrars in cases of doubt.

IX. In all cases where a Marriage Registrar, acting under the provisions of the fourth Section of the said Act of Parliament, shall not be satisfied that the person forbidding the issue of the Certificate is authorized by law so to do, the said Marriage Registrar shall apply by petition, which

may in all cases be on unstamped paper, where the district of such Registrar is within any of the Towns of Calcutta, Madras, and Bombay, to the Supreme Court of Judicature in the Presidency or Place within which such district is comprised, or if such district be not within any of the said Towns, then to the Judge of the Zillah or District within which the same is comprised, and the said petition shall state all the circumstances of the case, and pray for the order and direction of the Court concerning the same, and the said Supreme Court, or any Judge thereof, or such Judge of the Zillah or District, shall be empowered to examine into the allegations of the Petition and the circumstances of the case in a summary way, and if upon such examination it shall appear that the person forbidding the issue of such Certificate is not authorized by law so to do, such Supreme Court, or any Judge thereof, or such Judge of the Zillah or District, shall declare that the person forbidding the issue of such Certificate is not authorized as aforesaid, and that then and in such case such Certificate shall be issued, and the like Proceedings may be had under the said Act of Parliament in relation to such Marriage as if the issue of such Certificate had not been forbidden by such person. And in all cases where a Marriage Registrar, appointed to act within the Territories of any Native Prince or State in alliance with the East India Company acting under the provisions of the sixth Section of the said Act of Parliament, shall not be satisfied that the person forbidding the issue of the Certificate is not authorized by law so to do, the said Marriage Registrar shall transmit a statement of all the circumstances of the case, together with all documents and papers relating thereto, to the Governor General of India in Council, and if it shall appear to the said Governor General of India in Council that the person forbidding the issue of such Certificate is not authorized by law so to do, the said Governor General of India in Council shall declare that the party forbidding the issue of such Certificate is not authorized as aforesaid, and that then and in such case such Certificate shall be issued, and the like Proceedings may be had under the said Act of Parliament in relation to such Marriage, as if the issue of such Certificate had not been forbidden by such person.

Appeal where Registrar in Allied Native State refuses Certificate.

X. In all cases whatsoever where a Marriage Registrar resident in the Territories of any Native Prince or State in alliance with the East India Company has refused to issue his Certificate, it shall be lawful for either of the parties intending Marriage to apply by Petition to the Governor General of India in Council, and the said Governor

General of India in Council shall be empowered to examine the allegations of the Petition in a summary way, and shall decide thereon, and the decision of the said Governor General of India in Council shall be final, and the Marriage Registrar, to whom the application was originally made, shall proceed in accordance therewith.

Hours for Marriages.

XI. Every Marriage solemnized under the provisions of the said Act of Parliament shall be so solemnized between the hours of six in the morning and seven in the evening.

Declarations made at the Marriage to be translated to Native Christians.

XII. When any Native Christian is married under the provisions of the said Act of Parliament, the party solemnizing the said Marriage shall ascertain whether such Native Christian understands the English language, and if he does not, the party solemnizing the said Marriage shall, at the time of the solemnization thereof, translate, or cause to be translated, to such Native Christian, in the language of such Native Christian, both the declarations made at such Marriage in pursuance of Section IX of the said Act of Parliament.

Proof as to Notice, Certificate, or Hours of Marriage, &c., not necessary to establish Marriage.

XIII. After any Marriage has been solemnized under the said Act of Parliament, it shall not be necessary, in support of such Marriage, to give any proof in respect of the Notice of Marriage, or the Certificate, or the translation thereof respectively, or in respect of the hours between which any Marriage may be solemnized, or in respect of the said translations of the said declarations in Section IX of the said Act of Parliament contained, nor shall any evidence be given to prove the contrary, in any suit touching the validity of such Marriage.

Penalties.

XIV. Every Marriage Registrar, who shall knowingly and wilfully issue any Certificate for Marriage after the expiration of three Calendar months after the Notice shall have been entered by him as aforesaid, or who shall knowingly and wilfully issue, without the order of a competent Court authorizing him so to do, any Certificate for Marriage where one of the parties intending Marriage (not being a widower or widow) is under twenty-one years of age before the expiration of fourteen days after the entry of such Notice, or any Certificate the issue of which shall have been forbidden as aforesaid by any person authorized to forbid the issue thereof, shall be guilty of felony. And every person who shall knowingly and wilfully solemnize any Marriage under the provisions of the said Act of

Parliament in the absence of a Registrar of the District in which such Marriage is solemnized, or who shall knowingly and wilfully solemnize any marriage where one of the parties to such Marriage (not being a widower or widow) is under twenty-one years of age within fourteen days after the entry of the Notice of Marriage, no order for the issue of a Certificate in less than fourteen days having been made by a competent Court, shall be guilty of felony.

Certificates of Marriages in Allied Native States to be transmitted to Secretary to Govt. &c.

XV. The Marriage Registrars in the Territories of any Native Prince or State in alliance with the East India Company, shall transmit the Certificates mentioned and referred to in the twelth Section of the said Act of Parliament to the Secretary for the Foreign Department of the Government of India.

Punishment for making false oath or declaration.

XVI. Every person who shall knowingly and wilfully make any false oath or declaration, or sign any false Notice or Certificate, required by the said Act of Parliament or this Act, for the purpose of procuring any Marriage, and every person who shall forbid the issue of a Marriage Registrar's Certificate by falsely representing himself or herself to be a person whose consent to such Marriage is required by law, knowing such representation to be false, shall, on conviction, suffer the penalties of Perjury.

Limitation of Prosecution.

XVII. Every prosecution under this Act shall be commenced within the space of two years after the offence committed.

Appointment of Registrars in Allied Native States and as to their fees.

XVIII. The Governor General of India in Council may apppoint any covenanted or uncovenanted Servant of the Company, being a Christian, or any Minister of the Christian religion, ordained, or otherwise set apart to the Ministry of the Christian religion, according to the usage of the persuasion to which he may belong, to be a Marriage Registrar in any District, to be assigned by the Governor General of India in Council in any place within the Territories of any Native Prince or State in alliance with the East India Company. And the said Marriage Registrar shall be entitled to receive the following fees; that is to say, for receiving each Notice of Marriage, one rupee, for publishing each Notice of Marriage, two rupees, for the issuing of each Certificate, five rupees, for every Marriage forbidden or Protest entered, ten rupees, and for registering each Marriage, three rupees, and all such fees shall be accounted for and paid over by the Marriage Registrar to the Government Treasury as in the said Act of Parliament mentioned. Pro-

vided always, that in any case in which it shall appear to the satisfaction of the Marriage Registrar, that the parties intending marriage, or married, under the provisions of the said Act of Parliament, are in indigent circumstances, it shall and may be lawful for the said Marriage Registrar, in his discretion, to remit some part, but not more than three-fourths, of the said fees respectively, and in each and every such case of remission of fees, the Marriage Registrar shall report the circumstances thereof and the grounds on which the remission is made, for the information of the Governor General of India in Council.

Salaries of Registrars.

XIX. It shall be lawful for the Governor of each Presidency or Place to pay any one Marriage Registrar of Calcutta, Madras and Bombay, or of any other district where a considerable number of persons likely to avail themselves of this Act are resident, such salary as they shall think fit, not exceeding the sum of Co's Rs. fifty per month.

Provisions in case of illness, &c., of Marriage Registrar.

XX. When there is only one Marriage Registrar in a district, and such Registrar is absent from such district, or ill, or in case of the death of the only Marriage Registrar in a district, or of any temporary vacancy in such office, the Magistrate of such district shall act as, and be, Marriage Registrar thereof, during such absence, illness, or temporary vacancy as aforesaid.

Searches may be made and Certificates given.

XXI. Every Marriage Registrar, or other person who shall have the custody for the time being of the Register of Marriages under this Act, shall at all reasonable times allow searches to be made of any Register Book in his custody, and shall give a copy, certified under his hand, of any entry or entries in the same, on the payment of the fees hereinafter mentioned, (that is to say) for every search extending over a period of not more than one year, the sum of one rupee, and four annas additional for every additional year, and the sum of one rupee, for every single Certificate, and all such fees shall be accounted for and paid over by the Marriage Registrar to the Government Treasury.

Penalty for destroying or falsifying Register Books, &c.

XXII. Every person who shall wilfully destroy or injure, or cause to be destroyed or injured, any such Register Book, or the counterfoil Certificates thereof, or any part or certified copy thereof, or shall falsely make or counterfeit, or cause to be falsely made or counterfeited, any part of such Register Book, or of such counterfoil Certificates, or of certified copies thereof, or shall wilfully insert, or cause to be inserted, in any Register Book, or coun-

terfoil copy or certified copy thereof, any false entry of any Marriage, or shall wilfully give any false Certificate, or shall certify any writing to be a copy or extract of any Register Book, or counterfoil copy thereof, knowing the same Register Book or counterfoil copy to be false in any part thereof, shall be guilty of felony.

Accidental errors may be corrected.

XXIII. Any person charged with the duty of registering any Marriage, who shall discover any error to have been committed in the form or substance of any such entry, may, within one calendar month next after the discovery of such error, in the presence of the parties married, or, in case of their death or absence, in the presence of two other credible witnesses, who shall respectively attest the same, correct the erroneous entry according to the truth of the case, by entry in the margin without any alteration of the original entry, and shall sign the marginal entry, and add thereunto the day of the month and year when such correction shall be made, and he shall make the like marginal entry, attested in the like manner, in the counterfoil Certificate thereof, to be made by him as in the said Act of Parliament mentioned, and in case such counterfoil Certificate shall have been already transmitted to the Secretary of Government of the Presidency or Place within which he resides, he shall make and transmit in like manner a separate counterfoil Certificate of the original erroneous entry, and of the marginal correction therein made.

Certain Registers of Marriage may be kept as heretofore.

XXIV. Nothing in this Act contained shall be construed to extend to the Registration of Marriages which may be solemnized in India by persons in Holy Orders, or under the provisions of the Act of the 58th year of King George the Third, Chapter 84, or to the registration of any Marriage solemnized between any two persons professing the Jewish religion, and nothing herein contained, shall affect the right of any Officiating Minister to receive the fees now usually paid for the performance or registration of any Marriage.

Petitions to be on unstamped paper.

XXV. All petitions presented in pursuance of Section V. of the said Act of Parliament, may be so presented on unstamped paper.

Commencement of Act.

XXVI. This Act shall commence and take effect from and after the first day of February, 1852.

SCHEDULE (A.)

NOTICE OF MARRIAGE.

To *Mr. John Cox*, a Registrar of the District of *Calcutta* in *Bengal*.

I hereby give you Notice, that a Marriage is intended to be had, within three Calendar Months from the date hereof, between me and the other party herein named and described.

Name.	Condition.	Rank or Profession.	Age.	Dwelling Place.	Length of Residence.	Church, Chapel, or place of worship, or building in which Marriage is to be solemnized.	District in which the other Party resides, when the Parties dwell in different Districts.
James Smith,	*Widower,*	*Carpenter,*	*Of Full Age,*	16 *Clive Street,*	23 *Days,*	*Union Chapel, Dhurrumtollah.*	
Martha Green,	*Spinster,*	.....	*Minor,*	20 *Hastings' Street,*	*More than a Month,*		

Witness my Hand this *Sixth* Day of *May, One Thousand Eight Hundred and Fifty-two.*

(Signed) *James Smith.*

(The *Italics* in this Schedule to be filled up as the case may be, and the Blank division thereof is only to be filled up when one of the Parties lives in another District.)

SCHEDULE (B.)

REGISTRAR'S CERTIFICATE.

I, *John Cox*, a Registrar of the District of *Calcutta* in *Bengal*, do hereby Certify, that on the 6*th* day of *May*, Notice was duly entered in my Marriage Notice Book of the said District of the Marriage intended between the parties therein named and described, delivered under the Hand of *James Smith*, one of the Parties, (that is to say.)

Name.	Condition.	Rank or Profession.	Age.	Dwelling Place.	Length of Residence.	Church, Chapel, place of worship, or building in which the Marriage is to be solemnized.	District in which the other Party dwells when the Parties dwell in different Districts.
James Smith,	*Widower,*	*Carpenter,*	*Of Full Age,*	16 *Clive Street,*	23 *Days,*	*Union Chapel, Dhurrumtollah.*	
Martha Green,	*Spinster,*	.....	*Minor,*	20 *Hastings' Street,*	*More than a Month,*		

Date of Notice entered 6*th May* 1852.
Date of Certificate given 20*th May* 1852.

The Issue of this Certificate has not been forbidden by any Person authorized to forbid the issue thereof.

Witness my Hand this *Twentieth* Day of *May, One Thousand Eight Hundred and Fifty-two.*

(Signed) *John Cox*, Registrar.

This Certificate will be void unless the Marriage is solemnized on or before the 6*th* day *of August* 1852.

(The *Italics* in this Schedule to be filled up as the case may be, and the Blank division thereof is only to be filled up when one of the Parties lives in another District.)

ACT No. VII OF 1852.

Passed on the 6th of February 1852.

An Act for amending Act XVII of 1840 *as to the penalties for breaches of the Salt Laws in the Madras Presidency.*

Whereas inconvenience has been experienced in consequence of the Head Officers of District Police in the Madras Presidency being prohibited from taking cognizance of petty offences against the Salt Laws, It is enacted as follows :

Breach of Salt Laws by whom cognizible. Penalties.

I. Heads of District Police may hear and determine cases of offences against the Salt Laws, when the value of the Salt in question shall not exceed five Rupees, and may inflict punishment not exceeding ten days' imprisonment with labour; or a fine not exceeding three Rupees, commutable, if not paid, to imprisonment with labour for a period not exceeding ten days.

When case may be referred to Magistrate.

II. Whenever a Head Officer of District Police shall be of opinion, that the punishment which he is empowered to inflict is not adequate to the offence committed, he shall report the case to the Magistrate for his final orders, stating precisely the nature and extent of the punishment he recommends to be inflicted; and the Magistrate shall, at his discretion, issue his orders in writing to the Head Officer of Police, to inflict such punishment as the Magistrate may deem sufficient, not exceeding that declared in Act XVII. of 1840, recording his reasons, if his opinion is at variance with the opinion of the Head Officer of Police; or the said Magistrate shall order the Head Officer of Police to forward the parties and witnesses to him for further investigation.

Offender to be released if no answer be sent in 30 *days.*

III. If at the expiration of thirty days from the date and day of despatch of any reference from a Head Officer of District Police to a Magistrate, no answer or order of the Magistrate shall have been received by the Head Officer of Police, then the said Head Officer shall release the offenders, and the confinement which they have so had shall be considered a sufficient punishment for the said offence, and they shall not be liable to be again tried for the same.

Punishments awarded to be reported to Magistrate.

IV. Heads of District Police shall report to the Magistrates, in the manner prescribed by Clause 2, Section XXXIII. Regulation XI. of 1816, of the Madras Code, all punishments which they inflict by the authority vested in them by this Act.

ACT No. VIII OF 1852.

Passed on the 6th of February, 1852.

An Act for remunerating the Sheriffs of Calcutta, Madras and Bombay, for the execution of Mofussil Process under Act XXIII of 1840.

For making better provision for the Sheriffs of Calcutta, Madras and Bombay, in remuneration for the execution of legal process issued by Courts out of the said towns respectively, It is enacted as follows:

Sudder Court to prepare table of Sheriff's fees for execution of Mofussil Processes;

I. The several Sudder Courts of the Presidency of Fort William in Bengal, and the Sudder Courts of the Madras and Bombay Presidencies respectively shall make, and from time to time amend, a table of reasonable fees, to be taken on account of the execution by the Sheriff in such Presidency of any legal process issued by any Court, Judge or Magistrate, beyond the jurisdiction of the several Supreme Courts established by Royal Charter in Calcutta, Madras and Bombay, and of the sums to be allowed for costs of advertisements, or other notifications of sales of property, according to the amount of the decrees to be satisfied by such sales, which fees and sums shall be payable by the party applying for the process before it is sent to the Sheriff for execution, and shall be deemed costs in the cause.

Subject to approval of Government.

II. The said table of fees and sums, when made or amended as aforesaid, shall be submitted by the Sudder Court of the Lower Provinces of the Presidency of Fort William to the Governor of Bengal, and by the Sudder Court of the North Western Provinces of the said Presidency to the Lieutenant Governor of those Provinces, and by the Sudder Courts of Madras and Bombay respectively to the Governor in Council of the Presidencies in which such Courts respectively have jurisdiction, for his approval, and the said table of fees and sums shall have full force and effect, and the fees and sums therein mentioned may be lawfully demanded and taken from and after the approval thereof by the said Governor, Lieutenant Governor or Governor in Council, as the case may be.

Account of fees to be kept,

III. Every such Court, Judge and Magistrate issuing process as aforesaid shall cause a separate account to be kept of the amount of all fees and sums so paid, and shall, from time to time, as directed by Government, cause the amount thereof to be paid into the local treasury.

And amount paid to Sheriff twice a year.

IV. The Government of each of the Presidencies and Provinces aforesaid shall twice in each year account for and pay over to the Sheriff, for the time being, the amount of fees and sums so paid, after deducting all necessary expenses of receiving and keeping account thereof, and remitting the net proceeds thereof to Calcutta, Madras or Bombay, as the case may be; or, where the amount has accrued in the shrievalty of more than one Sheriff, shall apportion the sum paid accordingly between the Sheriff for the time being, and the then late Sheriff.

Fees may be commuted to monthly payment.

V. The said Governments respectively may compound with the Sheriff for a monthly payment to be made to him instead of such fees and sums, and during such composition may appropriate the said fees and sums to the purposes of Government.

Fee for seizure and sale of property.

VI. Over and above such fees and sums, or any such monthly payment received instead of such fees and sums, the Sheriff shall be entitled to a fee after the rate of Two Rupees Eight Annas for each Hundred Rupees of the value of any goods or property taken and sold by him in execution of any process issued by any Court, Judge or Magistrate beyond the local jurisdiction of the said Supreme Courts, which fee shall be taken to cover all expenses connected with the seizure and sale, except the expense of advertisement.

Fee for taking body of person in execution.

VII. No fee, estimated upon the amount of the sum for which any person is taken in execution, shall be payable to the Sheriffs of Calcutta, Madras or Bombay, or any of their Bailiffs, for taking the body of any person in execution on any process issued by any Court, Judge or Magistrate out of the local jurisdiction of the said Supreme Courts respectively; but instead thereof, such fees shall be payable to the Sheriff for taking the body of any person in execution of any such process as shall be settled, from time to time, by the Sudder Courts as aforesaid.

Sheriff liable to damages for escape of prisoner.

VIII. If any person taken in execution on any such process shall escape out of the legal custody of the Sheriff, the Sheriff shall not be liable to an action or debt for such escape, but shall be liable only to an action upon the case for damages in consequence of such escape sustained by the person or persons at whose suit the prisoner was taken.

ACT No. XV OF 1852.

Passed on the 12th of March, 1852.

An Act to amend the Law of Evidence.

Whereas it is expedient to amend the law of Evidence in divers particulars, It is hereby enacted as follows :

Repeal of part of Section I. Act VII. of 1844.

I. So much of Section I. of Act No. VII. of 1844 as provides that the said Act shall "not render competent any party to any suit, action, or proceeding individually named in the record, or any lessor of the plaintiff or tenant of premises sought to be recovered in ejectment, or the landlord or other person in whose right any defendant in replevin may make cognizance, or any person in whose immediate and individual behalf any action may be brought or defended, either wholly or in part," is hereby repealed.

Parties to be admissible witnesses.

II. On the trial of any issue joined, or of any matter or question, or on any enquiry arising in any suit, action, or other proceeding in any of Her Majesty's Courts of Justice, or before any person having, by law, or by consent of parties, authority to hear, receive and examine evidence with respect to, or concerning any suit, action, or other proceeding in any of such Courts, the parties thereto, and the persons in whose behalf any such suit, action, or other proceeding, may be brought or defended, shall, except as hereinafter excepted, be competent and compellable to give evidence, either *viva voce*, or by deposition, according to the practice of the Courts, on behalf of either or any of the parties to the said suit, action, or other proceeding.

Parties not compellable to criminate themselves. Husband and wife not compellable to give evidence for or against each other.

III. But nothing herein contained shall render any person, who in any criminal proceeding is charged with the commission of any indictable offence, or any offence punishable on summary conviction, competent or compellable to give evidence for or against himself or herself, or shall render any person compellable to answer any question tending to criminate himself or herself, or shall in any criminal proceeding render any husband competent or compellable to give evidence for or against his wife, or any wife competent or compellable to give evidence for or against her husband.

Act not to apply to proceedings for Adultery or to actions for breach of promise of marriage.

IV. Nothing herein contained shall apply to any action, suit, or proceeding in any Court of Common Law, or in any Ecclesiastical Court, instituted in consequence of adultery, or to any action for breach of promise of marriage.

The Wills Act not repealed.

V. Nothing herein contained shall repeal any provision contained in Act XXV. of 1838.

Courts authorized to compel inspection of documents in actions and other proceedings whenever Equity would grant discovery.

VI. Whenever any action or other legal proceeding shall henceforth be pending in any of Her Majesty's Courts, such Court and each of the Judges thereof may respectively, on application made for such purpose by either of the litigants, compel the opposite party to allow the party making the application to inspect all documents in the custody or under the control of such opposite party relating to such action or other legal proceeding, and, if necessary, to take examined copies of the same, or to procure the same to be duly stamped, in all cases in which previous to the passing of this Act, a discovery might have been obtained by filing a bill, or by any other proceeding in a Court of Equity at the instance of the party so making application as aforesaid to the said Court or Judge. * * * (a)

Foreign and Colonial Acts of State, judgments, &c., provable by certified copies without proof of seal or signature or judicial character of person signing the same.

VII. All proclamations, treaties, and other Acts of State of any Foreign State, or of the East India Company, or of any Territory under the Government of the East India Company, or of any British Colony, and all judgments, decrees, orders, and other judicial proceedings of any Court of Justice in any foreign State, or in any of the territories under the Government of the East India Company, or in any British Colony, and all affidavits, pleadings, and other legal documents filed or deposited in any such Court, may be proved in any of Her Majesty's Courts of Justice, or before any person having, by law or by consent of parties, authority to hear, receive, and examine evidence as aforesaid, either by examined copies, or by copies authenticated as hereinafter mentioned; that is to say, if the document sought to be proved be a Proclamation, Treaty, or other Act of State, the authenticated copy to be admissible in evidence must purport to be sealed with the Seal of the Foreign State, or of the East India Company, or of the Territory under the Government of the East India Company, or of the British Colony to which

(a) The proviso to this Section has been repealed by Sec. LII. Act II, o. 1855.

the original document belongs; and if the document sought to be proved be a judgment, decree, order, or other judicial proceeding of any Foreign or Colonial Court, or of any Court within the Territories under the Government of the East India Company, or an affidavit, pleading, or other legal document filed or deposited in any such Court, the authenticated copy to be admissible in evidence, must purport either to be sealed with the Seal of the Foreign or Colonial Court or Court within the Territories under the Government of the East India Company to which the original document belongs, or in the event of such Court having no Seal, to be signed by the Judge, or if there be more than one Judge, by any one of the Judges of the said Court, and such Judge shall attach to his signature a statement in writing on the said copy that the Court whereof he is a Judge has no Seal; but if any of the aforesaid authenticated copies shall purport to be sealed or signed as herein before respectively directed, the same shall respectively be admitted in evidence in every case in which the original document could have been received in evidence, without any proof of the Seal, where a Seal is necessary, or of the signature, or of the truth of the statement attached thereto, where such signature and statement are necessary, or of the judicial character of the person appearing to have made such signature and statement.

Registers of British Vessels and Certificates of Registry admissible without proof of signature.

VIII. Every Register of a vessel kept under Act X. of 1841, or under any of the Acts of Parliament, relating to the registry of British Vessels, may be proved in any of Her Majesty's Courts of Justice, or before any person having, by law or by consent of parties, authority to hear, receive, and examine evidence as aforesaid, either by the production of the original, or by an examined copy thereof, or by a copy thereof purporting to be certified under the hand of the person having the charge of the original, and which person is hereby required to furnish such certified copy to any person applying at a reasonable time for the same, upon payment of the sum of one Rupee; and every such Register, or such copy of a Register, and also every Certificate of registry granted under the said Act or any of the Acts of Parliament relating to the registry of British Vessels, and purporting to be signed as required by law, shall be received in evidence in any of Her Majesty's Courts of Justice, or before any person having, by law or by consent of parties, authority to hear, receive, and examine evidence as aforesaid, as *primâ facie* proof of all the matters contained or recited in such Register, when the Register or such copy thereof as aforesaid, is produced, and of all the matters contained or recited in or endorsed on such Certificate of registry when the said Certificate is produced.

Where necessary to prove conviction or acquittal, not necessary to produce record, but Certificate of Clerk of Court.

IX. Whenever in any proceeding whatever it may be necessary to prove the trial and conviction or acquittal of any person charged with any indictable offence, it shall not be necessary to produce the record of the conviction or acquittal of such person, or a copy thereof, but it shall be sufficient that it be certified or purport to be certified under the hand of the Clerk of the Court or other Officer having the custody of the records of the Court where such conviction or acquittal took place, or by the Deputy of such Clerk or other Officer, that the paper produced is a copy of the record of the indictment, trial, conviction, and judgment or acquittal, as the case may be, omitting the formal parts thereof.

Examined or certified copies of documents admissible.

X. Whenever any book or other document is of such a public nature as to be admissible in evidence on its mere production from the proper custody, and no Statute or Act exists which renders its contents provable by means of a copy, any copy thereof, or extract therefrom, shall be admissible in evidence in any of Her Majesty's Courts of Justice, or before any person now or hereafter having, by law or by consent of parties, authority to hear, receive and examine evidence as aforesaid, provided it be proved to be an examined copy or extract, or provided it purports to be signed and certified as a true copy or extract by the Officer to whose custody the original is entrusted, and which officer is hereby required to furnish such certified copy or extract to any person applying at a reasonable time for the same, upon payment of a reasonable sum for the same, not exceeding four annas, for every folio of ninety words.

Certifying a false document a misdemeanor.

XI. If any Officer authorized or required by this Act to furnish any certified copies or extracts shall wilfully certify any document as being a true copy or extract, knowing that the same is not a true copy or extract, as the case may be, he shall be guilty of a misdemeanor, and be liable, upon conviction, to imprisonment for any term not exceeding eighteen months.

Court, &c. may administer oath.

XII. All Her Majesty's Courts within the British Territories under the Government of the East India Company, and every Judge and Justice of such Courts, and every Officer, Commissioner, Arbitrator or other person, now or hereafter having, by law or by consent of parties, authority to hear, receive, and examine evidence with respect to or concerning any suit, action, or other proceeding in any of such Courts, is hereby empowered to administer

an oath to all such witnesses as are legally called before them respectively.

Persons forging seal, stamp, or signature or certain documents, or wilfully uttering the same, guilty of felony.

XIII. If any person shall forge the seal, stamp, or signature of any document in this Act mentioned or referred to, or shall tender in evidence any such document with a false or counterfeit seal, stamp, or signature thereto, knowing the same to be false or counterfeit, he shall be guilty of felony, and shall, upon conviction, be liable to transportation for seven years, or to imprisonment for any term not exceeding three years, nor less than one year, with hard labour; and whenever any such document shall have been admitted in evidence by virtue of this Act, the Court, or the person who shall have admitted the same, may, at the request of any party against whom the same is so admitted in evidence, direct that the same shall be impounded and be kept in the custody of some officer of the Court or other proper person, for such period, and subject to such conditions, as to the said Court, or person shall seem meet; and every person who shall be charged with committing any felony under this Act may be dealt with, indicted, tried, and, if convicted, sentenced, and his offence may be laid and charged to have been committed in the place in which he shall be apprehended or be in custody; and every accessory before or after the fact to any such offence may be dealt with, indicted, tried, and, if convicted, sentenced, and his offence may be laid and charged to have been committed in any place in which the principal offender may be tried.

XIV This Act shall come into operation from and after the tenth day of April, One Thousand Eight Hundred and Fifty-two.

ACT No. XVI OF 1852.

Passed on the 12th of March 1852.

An Act for further improving the Administration of Criminal Justice in Her Majesty's Courts of Justice in the Territories of the East India Company.

Preamble.

Whereas offenders frequently escape conviction on their trials, by reason of the technical strictness of criminal proceedings in matters not material to the merits of the case; and whereas such technical strictness may safely be relaxed in many instances, so as to insure the punishment of the guilty, without depriving the accused of any just means of defence; and whereas a failure of justice often takes place on the trial of persons charged with felony and misdemeanor by reason of variances between the statement in the indictment on which

the trial is had, and the proof of names, dates, matters, and circumstances therein mentioned, not material to the merits of the case, and by the misstatement whereof the person on trial cannot have been prejudiced in his defence, It is hereby enacted as follows :

The Court may amend certain variances not material to the merits of the case, and by which the defendant cannot be prejudiced in his defence, and may either proceed with or postpone the trial to be had before the same or another jury.

I. From and after the coming of this Act into operation, whenever, on the trial of any indictment for any felony or misdemeanor, there shall appear to be any variance between the statement in such indictment and the evidence offered in proof thereof, it shall and may be lawful for the Court before which the trial shall be had, if it shall consider such variance not material to the merits of the case, and that the defendant cannot be prejudiced thereby in his defence on such merits, to order such indictment to be amended, according to the proof, by some officer of the Court or other person, both in that part of the indictment where such variance occurs, and in every other part of the indictment which it may become necessary to amend, on such terms as to postponing the trial to be had before the same or another jury, as such Court shall think reasonable ; and after any such amendment the trial shall proceed, whenever the same shall be proceeded with, in the same manner in all respects, and with the same consequences, both with respect to the liability of witnesses to be indicted for perjury and otherwise, as if no such variance had occurred : provided that, in all such cases where the trial shall be so postponed as aforesaid, it shall be lawful for such Court to respite the recognizances of the prosecutor and witnesses, and of the defendant, and his surety or sureties, if any, accordingly, in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence respectively, and the defendant shall be bound to attend to be tried, at the time and place to which such trial shall be postponed, without entering into any fresh recognizances for that purpose, in such and the same manner as if they were originally bound by their recognizance to appear and prosecute, or give evidence, at the time and place to which such trial shall have been so postponed : provided also, that where any such trial shall be to be had before another jury, the crown and the defendant shall respectively be entitled to the same challenges as they were respectively entitled to before the first jury was sworn.

Verdicts and judgments valid after amendments.

II. Every verdict and judgment which shall be given after the making of any amendment under the provisions of this Act, shall be of the same force and effect in all respects as if the indictment had originally been in the same form in which it was after such amendment was made.

Records to be drawn up in amended form, without noticing the amendments

III. If it shall become necessary at any time, for any purpose whatsoever, to draw up a formal record in any case where any amendment shall have been made under the provisions of this Act, such record shall be drawn up in the form in which the indictment was after such amendment was made, without taking any notice of the fact of such amendment having been made.

The means by which the injury was inflicted need not be specified in indictments for murder and manslaughter.

IV. In any indictment for murder or manslaughter preferred after the coming of this Act into operation, it shall not be necessary to set forth the manner in which, or the means by which, the death of the deceased was caused, but it shall be sufficient, in every indictment for murder, to charge that the defendant did feloniously, wilfully, and of his malice aforethought kill and murder the deceased, and it shall be sufficient in every indictment for manslaughter to charge that the defendant did feloniously kill and slay the deceased.

Forms of indictment in cases of forgery and uttering, stealing, and embezzling, or obtaining by false pretences.

V. In any indictment for forging, uttering, stealing, embezzling, destroying or concealing, or for obtaining by false pretences, any instrument, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by the purport thereof, without setting out any copy or facsimile thereof, or otherwise describing the same, or the value thereof.

In engraving plates, &c.

VI. In any indictment for engraving, or making the whole or any part of any instrument, matter or thing whatsoever, or for using or having the unlawful possession of any plate or other material upon which the whole or any part of any instrument, matter, or thing whatsoever shall have been engraved or made, or for having the unlawful possession of any paper upon which the whole or any part of any instrument, matter, or thing whatsoever shall have been made or printed, it shall be sufficient to describe such instrument, matter, or thing by any name or designation by which the same may be usually known, without setting out any copy or fac-simile of the whole or any part of such instrument, matter, or thing.

In other cases.

VII. In all other cases, wherever it shall be necessary to make any averment in any indictment as to any instrument, whether the same consists wholly or in part of writing, print, or figures, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by

the purport thereof, without setting out any copy or fac-simile of the whole or any part thereof.

Intent to defraud particular persons need not be alleged or proved in cases of forgery, uttering, or false pretences.

VIII. From and after the coming of this Act into operation, it shall be sufficient in any indictment for forging, uttering, offering, disposing of, or putting off any instrument whatsoever, or for obtaining or attempting to obtain any property by false pretences, to allege that the defendant did the act with intent to defraud, without alleging the intent of the defendant to be to defraud any particular person; and on the trial of any of the offences in this section mentioned, it shall not be necessary to prove an intent on the part of the defendant to defraud any particular person, but it shall be sufficient to prove that the defendant did the act charged with an intent to defraud.

A party indicted for felony or misdemeanor may be found guilty of an attempt to commit the same, and shall be liable to the same consequences as if charged with and convicted of the attempt only. No person so tried to be afterwards prosecuted for the same.

IX. And whereas offenders often escape conviction by reason that such persons ought to have been charged with attempting to commit offences, and not with the actual commission thereof; it is enacted, that if on the trial of any person charged with any felony or misdemeanor, it shall appear to the jury upon the evidence that the defendant did not complete the offence charged, but that he was guilty only of an attempt to commit the same, such person shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is not guilty of the felony or misdemeanor charged, but is guilty of an attempt to commit the same, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for attempting to commit the particular felony or misdemeanor charged in the said indictment; and no person so tried as herein lastly mentioned shall be liable to be afterwards prosecuted for an attempt to commit the felony or misdemeanor for which he was so tried.

Repeal of the 8th Section of Act XXXI. of 1838.

X. And whereas it is enacted by the 8th Section of Act XXXI. of 1838 that "on the trial of any person for any of the offences therein before mentioned, or for any felony whatever where the crime charged shall include an assault against the person, it shall be lawful for the jury to acquit of the felony, and to find a verdict of guilty of assault against the person indicted, if the evidence shall warrant such finding:" and whereas great difficulties have arisen in the construction of such enactment: for

remedy thereof it is enacted that the said enactment shall be, and the same is, hereby repealed.

On the trial of an indictment for robbery, the jury may convict of an assault with intent to rob no person so tried to be afterwards prosecuted for the same.

XI. If upon the trial of any person upon any indictment for robbery, it shall appear to the jury upon the evidence that the defendant did not commit the crime of robbery, but that he did commit an assault with intent to rob, the defendant shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is guilty of an assault with intent to rob, and thereupon such defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment for feloniously assaulting with intent to rob; and no person so tried as is herein lastly mentioned shall be liable to be afterwards prosecuted for an assault with intent to commit the robbery for which he was so tried.

Person tried for misdemeanor not to be acquitted if the offence turn out to be felony, unless the Court so direct.

XII. If upon the trial of any person for any misdemeanor, it shall appear that the facts given in evidence amount in law to a felony, such person shall not by reason thereof be entitled to be acquitted of such misdemeanor; and no person tried for such misdemeanor shall be liable to be afterwards prosecuted for felony on the same facts, unless the Court before which such trial may be had shall think fit, in its discretion, to discharge the jury from giving any verdict upon such trial, and to direct such person to be indicted for felony, in which case such person may be dealt with in all respects as if he had not been put upon his trial for such misdemeanor.

Persons indicted for embezzlement, as a clerk, &c., not to be acquitted if the offence turn out to be larceny, and vice versa

XIII. If upon the trial any person indicted for embezzlement, as a clerk, servant, or person employed for the purpose, or in the capacity of a clerk or servant, it shall be proved that he took the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that such person is not guilty of embezzlement, but is guilty of simple larceny, or of larceny as a clerk, servant, or person employed for the purpose, or in the capacity of a clerk or servant, as the case may be, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such larceny; and if upon the trial of any person indicted for larceny it shall be proved that he took the property in question in any such manner as to amount in law

to embezzlement, he shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that such person is not guilty of larceny, but is guilty of embezzlement, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such embezzlement; and no person so tried for embezzlement or larceny as aforesaid shall be liable to be afterwards prosecuted for larceny or embezzlement upon the same facts.

Upon an indictment for jointly receiving, persons guilty of separately receiving may be convicted.

XIV. If upon the trial of two or more persons indicted for jointly receiving any property, it shall be proved that one or more of such persons separately received any part of such property, it shall be lawful for the jury to convict upon such indictment such of the said persons as shall be proved to have received any part of such property.

Separate accessories and receivers may be included in the same indictment in the absence of the principal felon.

XV. And whereas it frequently happens that the principal in a felony is not in custody or amenable to justice, although several accessories to such felony or receivers at different times of stolen property the subject of such felony may be in custody or amenable to justice: for the prevention of several trials, it is enacted that any number of such accessories or receivers may be charged with substantive felonies in the same indictment, notwithstanding the principal felon shall not be included in the same indictment, or shall not be in custody or amenable to justice.

Three larcenies from the same person within six months may be included in the same indictment.

XVI. It shall be lawful to insert several counts in the same indictment against the same person for any number of distinct acts of stealing, not exceeding three, which may have been committed by him against the same person within the space of six calendar months from the first to the last of such acts, and to proceed thereon for all or any of them.

Where a single taking is charged, the prosecutor need not elect, unless where more than three takings, or more than six months between the first and last taking.

XVII. If upon the trial of any indictment for larceny, it shall appear that the property alleged in such indictment to have been stolen at one time was taken at different times, the prosecutor shall not by reason thereof be required to elect upon which taking he will proceed, unless it shall appear that there were more than three takings, or that more than the space of six calendar months elapsed between the first and the last of such takings; and in either of such last mentioned cases

the prosecutor shall be required to elect to proceed for such number of takings, not exceeding three, as appear to have taken place within the period of six calendar months from the first to the last of such takings.

Coin and bank-notes may be described simply as money.

XVIII. In every indictment in which it shall be necessary to make any averment as to any money or any note of any bank, it shall be sufficient to describe such money or bank-note simply as money, without specifying any particular coin or bank-note; and such allegation, so far as regards the description of the property, shall be sustained by proof of any amount of coin or of any bank-note, although the particular species of coin of which such amount was composed, or the particular nature of the bank-note, shall not be proved, and in cases of embezzlement and obtaining money or bank-notes by false pretences, by proof that the offender embezzled or obtained any piece of coin or any bank-note, or any portion of the value thereof, although such piece of coin or bank-note may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, or to any other person, and such part shall have been returned accordingly.

Simplifying indictments for perjury and other like offences.

XIX. In every indictment for perjury, or for unlawfully, wilfully, falsely, fraudulently, deceitfully, maliciously, or corruptly taking, making, signing, subscribing any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing, it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what Court or before whom the oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing was taken, made, signed, or subscribed, without setting forth the bill, answer, information, indictment, declaration, or any part of any proceeding either in law or in equity, and without setting forth the commission or authority of the Court or person before whom such offence was committed.

As to form of indictments for subornation of perjury and other like offences.

XX. In every indictment for subornation of perjury, or for corrupt bargaining or contracting with any person to commit wilful and corrupt perjury, or for inciting, causing, or procuring any person unlawfully, wilfully, falsely, fraudulently, deceitfully, maliciously or corruptly to take, make, sign or subscribe any oath, affirmation, declaration, affidavit, deposition, bill answer, notice, certificate, or other writing, it shall be sufficient, wherever such perjury or other offence aforesaid shall have

been actually committed, to allege the offence of the person who actually committed such perjury or other offence in the manner herein before mentioned, and then to allege that the defendants unlawfully, wilfully, and corruptly did cause and procure the said person the said offence, in manner and form aforesaid, to do and commit; and wherever such perjury or other offence aforesaid shall not have been actually committed, it shall be sufficient to set forth the substance of the offence charged upon the defendant, without setting forth or averring any of the matters or things herein before rendered unnecessary to be set forth or averred in the case of wilful and corrupt perjury.

What defects shall not vitiate an indictment

XXI. No indictment for any offence shall be held insufficient for want of the averment of any matter unnecessary to be proved, nor for the omission of the words "as appears by the record," or of the words "with force and arms," or of the words "against the peace," nor for the insertion of the words "against the form of the statute," instead of "against the form of the statutes," or *vice versâ*, nor for that any person mentioned in the indictment is designated by a name of office, or other descriptive appellation, instead of his proper name, nor for omitting to state the time at which the offence was committed in any case where time is not of the essence of the offence, nor for stating the time imperfectly, nor for stating the offence to have been committed on a day subsequent to the finding of the indictment, or on an impossible day, or on a day that never happened, nor for want of a proper or perfect venue, nor for a want of a proper or formal conclusion, nor for want of or imperfection in the addition of any defendant, nor for want of the statement of the value or price of any matter or thing, or the amount of damage, injury, or spoil, in any case where the value or price, of the amount of damage, injury, or spoil, is not of the essence of the offence.

Formal objections to indictments shall be taken before jury are sworn Court may amend any formal defect

XXII Every objection to any indictment for any formal defect apparent on the face thereof shall be taken, by demurrer or motion to quash such indictment, before the jury shall be sworn, and not afterwards; and every Court before which any such objection shall be taken for any formal defect may, if it be thought necessary, cause the indictment to be forthwith amended in such particular by some officer of the Court, or other person, and thereupon the trial shall proceed as if no such defect had appeared.

Provision as to traversing indictments.

XXIII. No person prosecuted shall be entitled to traverse or postpone the trial of any indictment found against him at any Session of the Peace, Session of Oyer and Terminer, or Session of Gaol Delivery; provided always that if the Court, upon the application of the person so indicted or otherwise, shall be of opinion that he ought to be allowed a further time, either to prepare for his defence or otherwise, such Court may adjourn the trial of such person to the next subsequent session, upon such terms as to bail or otherwise as to such Court shall seem meet, and may respite the recognizances of the prosecutor and witnesses accordingly, in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence at such subsequent Session without entering into any fresh recognizance for that purpose.

Provision as to plea of autrefois convict *or* autrefois acquit.

XXIV. In any plea of *autrefois convict* or *autrefois acquit* it shall be sufficient for any defendant to state that he has been lawfully convicted or acquitted (as the case may be) of the said offence charged in the indictment.

Punishment for certain indictable misdemeanors.

XXV. Whenever any person shall be convicted of any one of the offences following, as an indictable misdemeanor; that is to say,—any cheat or fraud punishable at common law; any conspiracy to cheat or defraud, or to extort money or goods, or falsely to accuse of any crime, or to obstruct, prevent, pervert, or defeat the course of public justice; any escape or rescue from lawful custody, on a criminal charge; any public and indecent exposure of the person; any indecent assault, or any assault occasioning actual bodily harm; any attempt to have carnal knowledge of a girl under twelve years of age; any public selling, or exposing for public sale or to public view, of any obscene book, print, picture, or other indecent exhibition, it shall be lawful for the Court to sentence the offender to be imprisioned for any term now warranted by law, and also to be kept to hard labour during the whole or any part of such term of imprisonment.

Interpretation of terms.

XXVI. In the construction of this Act the word "indictment" shall be understood to include "information," "inquisition," and "presentment," as well as "indictment," and also any "plea," "replication," or other pleading; and the terms "finding of the indictment," shall be understood to include "the taking of an inquisition," "the exhibiting of an information," and "the making a presentment;" and wherever, in this Act, in describing or referring to any person or party, matter or

thing, any word importing the singular number or masculine gender is used, the same shall be understood to include and shall be applied to several persons and parties as well as one person or party, and females as well as males, and bodies corporate as well as individuals, and several matters and things as well as one matter or thing; and the word "property" shall be understood to include goods, chattels, money, valuable securities, and every other matter or thing, whether real or personal, upon or with respect to which any offence may be committed.

Commencement of Act.

XXVII. This Act shall come into operation from and after the tenth day of April, One thousand eight hundred and fifty-two.

ACT No. XVII. OF 1852.

Passed on the 12th of March 1852.

An Act to diminish the expense and delay of proceedings in Her Majesty's Courts within the Territories of the East India Company.

Persons interested in questions cognizable in Her Majesty's Courts may state special cases for the opinion of such Courts.

I. It shall be lawful for persons interested or claiming to be interested in any question cognizable in Her Majesty's Courts within the Territories of the East India Company, on the Equity, Plea, Ecclesiastical, or Admiralty sides thereof respectively, and including among such persons all lunatics, married women, and infants in the manner and under the restrictions hereinafter contained, to concur in stating such questions in the form of a special case for the opinion of the said Courts, and it shall also be lawful for all Executors, Administrators, Representatives and Trustees to concur in such case.

How lunatic may concur.

II. The Committee of the estate of any lunatic interested or claiming to be interested in any such question as aforesaid may, after having been authorized in that behalf by the Court or any Judge thereof in which such special case is filed, concur in such case in his own name, and in the name and on the behalf of the lunatic.

How married women may concur.

III. A husband interested or claiming to be interested in right of his wife in any such question as aforesaid may concur in such case in his own name, and in the name of his wife where the wife has no claim to any interest distinct from her husband, and a married woman having or

claiming any interest in any such question as aforesaid distinct from her husband may in her own right concur in such case, provided that her husband also concurs therein; but nothing herein contained shall be construed so as to require the husband of a Mahomedan or Hindoo female to concur in such case.

How infant may concur.

IV. The guardian of any infant interested or claiming to be interested in any such question as aforesaid may concur in such case in the name and on the behalf of the infant, unless such guardian has an interest in such question adverse to the interest of the infant therein.

How special guardian to be appointed for a lunatic not found such by inquisition and for infant.

V. It shall be lawful for the said Courts, by order to be made in the matter of any lunatic not found such by inquisition, or in the matter of any infant, upon the application of any person on the behalf of such lunatic, or upon the application of such infant, by motion or petition, to appoint any person shown by affidavit to be a fit person, and to have no interest adverse to the interest of the lunatic or infant, to be the special guardian of such lunatic or infant for the purpose of concurring in such case in the name and on behalf of the lunatic or infant, and any such person so appointed may lawfully so concur. Provided always, that it shall be lawful for the said Courts to require notice of such application to be given to such person, if any, as the Court shall think fit.

Order to appoint special guardian of an infant may be discharged by Courts if made without notice.

VI. In any case in which any such order as aforesaid shall have been made by the said Courts in the matter of any infant without notice to the guardian of the infant, it shall be lawful for the said Courts, if they shall respectively think fit so to do, to discharge such order upon the application of such guardian, by motion or petition; and the said Courts, if they shall respectively think fit, may thereupon appoint some other fit person to be the special guardian of such infant for the purpose of such special case, and may also give such directions as may be necessary for substituting in such special case either the name of the guardian so applying, or of the special guardian so appointed, in lieu of the name of the special guardian so displaced. Provided always, that the discharge of any Order appointing a special guardian shall not invalidate any thing which shall, in the meantime have been done by such special guardian, unless the Court shall, upon notice to all parties, specially so direct.

How special cases to be entitled.

VII. Every such special case shall be entitled as a cause between some or one of the parties interested or claiming to be interested as plaintiffs or plaintiff, and the others or other of them as defendants or defendant; and in the title to such cases, lunatics and infants shall be described as such, and their Committees, guardians, or special guardians named; and where in any such case a married woman is named as a plaintiff, and her husband as a defendant thereto, a next friend of such married woman shall be named in the title to such case; but nothing herein contained shall be construed so as to require a next friend of any Hindoo or Mahomedan married woman to be named in such title.

Form of Special case.

VIII. Every such special case shall concisely state such facts and documents as may be necessary to enable the Court to decide the question raised thereby; and upon the hearing of such case, the Court and the parties shall be at liberty to refer to the whole contents of such documents; and the Court shall be at liberty to draw from the facts and documents stated in any such special case any inference which the Court might have drawn therefrom if proved in a cause.

Special case to state how guardian constituted, and the concurrence of married women.

IX. Every such special case to which an infant or lunatic is a party by his guardian or special guardian shall also state how such guardian or special guardian was constituted; and where any married woman having or claiming any interest distinct from her husband is a party to such case, it shall be stated therein that she concurs in such case in her own right.

Special case to be signed by Counsel and filed, and appearances to be entered for defendants.

X. Every such special case shall be signed by Counsel for all parties, and shall be filed in the same manner as bills, plaints, or allegations are filed, and the defendants may appear thereto in the same manner as defendants appear to bills, plaints, or allegations, and no defendants shall be required to take an office copy of a special case, but an office copy thereof shall be taken by the plaintiff.

Parties to be bound by statements after defendants have appeared to special case.

XI. After a special case shall have been filed, and the defendants shall have appeared thereto, all the parties to such special case shall be subject to the jurisdiction of the Court in the same manner as if the plaintiff in the special case had filed a bill, plaint, or allega-

tion against the parties named as defendants thereto, and such defendants had appeared to such bill, plaint, or allegation, and upon the special case being filed and appearances entered thereto as aforesaid, all parties to such special case, shall, for the purposes of such special case, be bound by the statements therein.

How cases to be set down for hearing.

XII. So soon as all the defendants shall have appeared to the special case, the same may be set down for hearing and subpœnas to hear judgment or notices of hearing, issued and served according to the practice of the said Courts.

Upon hearing, Court to determine question and make declaration.

XIII. It shall be lawful for the said Courts upon the hearing of any such special case as aforesaid, to determine questions raised therein or any of them, and by decree or judgment to declare its opinion thereon, and, so far as the case shall admit of the same, upon the right involved therein, without proceeding to administer any relief consequent upon such declaration, and every such declaration of the said Court contained in any such decree or judgment shall have the same force and effect as such declaration would have had, and shall be binding to the same extent as such declaration would have been, if contained in a decree or judgment made in a suit between the same parties instituted by bill, plaint, or allegation; provided always, that if upon the hearing of such special case as foresaid, the Court shall be of opinion that the statements contained therein so far as the same affect the interest of any married woman, infant or lunatic are not true, or that the questions raised thereby or any of them cannot properly be decided upon such case, the same may be at such hearing, with the consent of all parties thereto, and of the Court, amended so as properly to raise such questions, or the said Court may refuse to decide the same.

Proviso that Court may refuse to decide.

Protection to be afforded to Trustees by declaration.

XIV. Every executor, administrator, representative, trustee, or other person making any payment or doing any act in conformity with the declaration contained in any decree or judgment made or pronounced upon a special case, shall in all respects be as fully and effectually protected and indemnified by such declaration, as if such payment had been made or act done under or in pursuance of the express order of the said Court made in a suit, action, or proceeding between the same parties instituted by bill, plaint, or allegation, save only as to any rights or claims of any person in respect of matters not determined by such declaration.

The Court may suspend the acting upon declaration.

XV. Where any person shall be desirous to have a special case re-heard, or to appeal from the decision thereon, it shall be lawful for the said Courts respectively, upon application for that purpose, either at the time of the decree or judgment upon such special case, being made, or at any time afterwards, and upon such conditions, if any, as the Court shall think fit, to order that the declaration contained in such decree shall not be acted upon for such time as the said Courts respectively shall think just.

Special case to be a lis pendens, and may be filed.

XVI. The filing of a special case, and the entering of appearances thereto by the persons named as defendants therein, shall be taken to be a *lis pendens.*

Mode of identifying documents, and Court may order production.

XVII. Any documents referred to, in a special case, and any copies thereof or extracts therefrom, identified by the signature of the solicitors for all parties, may be produced and read at the hearing of such case, without further proof; and it shall be lawful for the said Courts respectively, at any time after the filing of the special case, and the entering of appearances thereto by the persons named as defendants therein, to order any document, which may be admitted thereby to be in the possession of any party to such case, to be deposited and produced in such manner and for such purposes as the said Courts respectively shall think fit.

Court, on application of Executors or Administrators, may by order of course direct it to be referred to a Master to take an account of debts and liabilities.

XVIII. It shall be lawful for the said Courts upon the application of the executors, administrators or representatives in estate of any deceased person, by order to be made upon motion or petition of course, and to be in the form or to the effect set forth in the schedule hereto, with such variations as circumstances may require, to refer it to the Master of the said Courts respectively to take an account of the debts and liabilities affecting the estate of such deceased person, and to report thereon; provided always, that no such order shall be made until the expiration of one year next after the death of such deceased person, or pending any proceedings to administer the estate of such person, and in case at any time after the making of such order, any decree or order for administering the estate of such deceased person shall be made, it shall be lawful for the said Courts respectively, by such decree or order, to stay or suspend the proceedings under such order of course on such terms and conditions, if any, as to the said Courts respectively shall seem just.

Master's Report may be objected to by motion to the Court, of which notice shall be given.

XIX. It shall be lawful for any person who may have come in before the Master under any such order, and claimed to be a creditor upon the estate of the deceased person, or to have any demand upon such estate by reason of any liability, and whose debt or claim may not have been wholly allowed by the said Master, to apply to the Court making such order by motion, of which notice shall be given within fourteen days after the filing of the Master's Report, to have such claim allowed by such Court, either wholly or partially; and it shall be lawful for the said executors, administrators or representatives in estate, and for any creditor of the deceased person who may be authorized by special leave of the said Court so to do, to apply to the said Court by motion, of which notice shall be given within the time aforesaid, to have any debt or claim allowed by the said Master disallowed by the said Court, either wholly or partially, and, at the expiration of fourteen days after the filing of the said report, the same shall, except as to any debt or claim as to which any such notice as aforesaid may have been given, be absolute, as if the same had been confirmed by order of the said Court.

Proceeding of the Court on such motion.

XX. Upon the hearing of any such motion as aforesaid the said Courts respectively may either dismiss such motion, or may order the debt or claim to which such motion relates to be allowed or disallowed, as the case may be, and either wholly or partially, or may direct further inquiry or further proceedings, by way of action or otherwise, touching such debt or claim, and after such inquiry or proceedings may, upon further motion, deal with such debt or claim, as to the said Courts respectively shall seem just; provided always, that no new evidence shall be received by the said Courts upon the hearing of any such motion without special leave of the said Courts.

If debts or certain liabilities allowed, and not paid or provided for, order may be made for payment or accounts.

XXI. In case any debt or any certain liability shall have been allowed as aforesaid, and shall not within fourteen days after the report has become absolute as to such debt or liability, or after the same shall have been allowed by the said Court, be paid or provided for by appropriation to the satisfaction of the person who has established such liability, it shall be lawful for the said Courts respectively by order to be made, in case of any debt remaining due, upon the application by motion or petition of the person to whom the debt remains due, and no notice to the executors, administrators, or representatives in estate, and in case of any certain liability remaining un-

provided for by appropriation, upon the application by motion or petition of the person by whom such liability has been established, or of the executors, administrators, or representatives in estate, and on notice by the party applying to the other of them, to order payment of the debts which may have been allowed and remain unpaid, and to provide for the certain liabilities which may have been allowed and remain unprovided for, in like manner as the same could or might have been paid or provided for in a suit for that purpose instituted by Bill, or to refer it to the Master to take an account of the debts and certain liabilities allowed as aforesaid which remain unpaid or unprovided for, and also the usual accounts of the estate of the deceased person, with all usual and proper directions; and every such order shall have the same force and effect and shall be prosecuted and carried on in like manner as a decree in a creditor's suit instituted by bill.

Accounts to be taken according to usual practice of the Courts.

XXII. Nothing in Sections XVIII. and XXI. of this Act contained shall be construed so as to prevent any of Her Majesty's Courts from taking such accounts as aforesaid in any manner in which, according to the usual practice of such Courts, the same might have been taken if directed by a decretal order made in a suit.

Courts, on application of executors or administrators, &c. may direct appropriation of money to answer contingent liability

XXIII. In case any contingent liability shall be allowed by the said report or by the said Courts respectively, it shall be lawful for the said Courts, by order, to be made upon the application of the executors, administrators, or representatives in estate, by motion or petition, on notice to the person who may have established such contingent liability, to order such sum of money, part, or proceeds of part, of the estate of the deceased person, as to the said Courts respectively shall seem just, to be set apart and appropriated for answering such contingent liability, and to give such directions as the said Courts shall think fit touching the payment of such sum of money into Courts, and the investment thereof, and the payment, application, or accumulation of the interest or dividends thereof in the meantime and until the same shall be required to answer such liability and when such liability shall be ascertained or determined, to give such directions as to the payment of such sum out of Court as the said Courts respectively shall deem right. Provided always, that no order to be made as aforesaid shall in any manner bind the assets so appropriated as against the persons entitled to the estate of the deceased subject to the contingent liability, and any person interested in such appro-

priated assets may apply to the Court touching the same, as he may be advised.

Court may restrain proceedings against executors, administrators, &c

XXIV. After the filing of such report as aforesaid, it shall be lawful for the said Courts respectively upon the application of the executors, administrators, or representatives in estate of the deceased, by order, to be made on motion, to restrain by injunction any proceedings at law against them by any person having or claiming to have any demand upon the estate of the deceased by reason of any debt or liability other than the persons who may have established contingent liabilities under the said order for which no appropriation may have been made.

Protection to be afforded to executors, administrators, &c

XXV. In case no debt or liability, or no debt or liability other than a contingent liability, shall have been allowed as aforesaid, or in case any debt or liability other than as aforesaid shall have been allowed as aforesaid, then after the same shall have been paid or provided for by appropriation as aforesaid, all payments made by the executors, administrators, or representatives in estate, or any of them, on account of the estate of the deceased person, and all dispositions of such assets made by them or any of them on account of such estate, shall, as against all persons having or claiming to have any demand upon such estate by reason of any debt or liability, other than persons who may have established under the said order any contingent liability for which no such appropriation as aforesaid may have been made, be as good and effectual as if the same had been made under a decree of the said Courts respectively. Provided always, that nothing herein contained shall in any manner affect or prejudice the rights of any creditor or other person having any demand or claim upon the estate of the deceased against any assets so paid or disposed of, or against the persons to whom such payment or disposition may have been made, or against any assets appropriated under the provisions of this Act, and the appropriation of which, if made a decree of the said Court, in a suit to which he was not a party, would not have been binding upon him.

Exceptions for scandal, impertinence and insufficiency to be heard by the Court.

XXVI. All exceptions for scandal, impertinence, and insufficiency, which according to the existing practice of the said Courts are referred to the Masters of the said Courts, shall not any longer be so referred, but shall be heard and determined in the first instance by the said Courts, or any Judge thereof.

Power for Court, notwithstanding any rule, &c. to the contrary, to receive proof by affidavit.

XXVII. Notwithstanding any rule or practice of the said Courts to the contrary, it shall be lawful for the said Courts respectively, at the hearing of any cause or of any further directions therein, to receive proof by affidavit or otherwise of all proper parties being before the Court, and of all such matters as are necessary to be proved for enabling the said Courts respectively to order payment of any monies belonging to any married woman, and of all such other matters, not directly in issue in the cause, as in the opinion of the said Courts respectively may safely and properly be so proved.

Her Majesty's Courts to make General Rules and Orders from time to time.

XXVIII. It shall be lawful for the said Courts respectively, from time to time, to make, rescind, and alter General Rules and Orders for better enabling the opinion of the said Courts respectively to be obtained on special cases, and for effectuating the purposes of this Act as to the debts and liabilities of deceased persons, and for making any provisions which may be or be deemed necessary or proper as amendment, revivor and supplemental matter or relief, and as to costs of any proceedings under or in pursuance of this Act, and for regulating the times and form and mode of procedure and practice of the said Courts in respect of the matters to which this Act relates, and every of them, and so far as may be found expedient for altering the course of proceeding hereinbefore prescribed in respect to such matters or any of them, and generally for assimilating the practice of the said Courts respectively to that of the High Court of Chancery in England.

Rules and Orders to be laid before the Governor General in Council, and to be binding from the time appointed or from the making, unless objected to.

XXIX. All such General Rules and Orders shall be laid before the Governor General of India in Council within one month after the making and issuing of the same, and every such Rule or Order shall, from and after the time in that behalf to be appointed by the said Courts respectively, and if no time shall be so appointed, then from and after the making thereof, be binding and obligatory on the said Courts respectively, and be of like force and effect as if the provisions therein contained had been expressly enacted by the Governor General of India in Council. Provided always, that if the said Governor General of India in Council shall by any resolution passed at any time within six months after such Rules, Orders, and Regulations shall have been laid before him, resolve that the whole or any part of such Rules or Orders ought not to continue in force, in such case the whole or such part

thereof as shall be so included in such resolution shall, from and after the time that such resolution is notified to the said Court, cease to be binding and obligatory on the said Court; provided that every such Rule or Order so made or expressed to be made in pursuance of this Act which shall not be laid before the Governor General of India in Council within the time by this Act limited for that purpose shall, from and after the expiration of such time, be absolutely void and of no effect. Provided always, that nothing in this clause contained shall be construed so that the said Rules or Orders should not be transmitted as heretofore to Her Majesty in Privy Council for approbation.

Until Rules or Orders are made, and if not applicable when made, practice to be according to this Act and practice of the Court.

XXX. In the meantime and until any such General Rules or Orders shall be made, and in so far as the same, when made, shall not be applicable, the proceedings under this Act shall be governed and regulated by the provisions herein contained, so far as the same extend, and in so far as the same do not extend shall, as well with respect to the persons who ought to be made parties to special cases as in every other respect, be governed and regulated by the Rules, Orders and Practice of the said Courts respectively, in suits instituted by bill, so far as the same can be applied thereto; and subject to such General Rules and Orders as aforesaid, the costs of all proceedings under this Act, shall be in the discretion of the said Courts respectively.

Decrees and Orders to be subject to appeal, &c.

XXXI. All decrees and orders made under the provisions of this Act, shall be subject to rehearing, appeal, and review, and may be discharged and varied in the same and the like manner as decrees and orders of the said Courts made in suits instituted by bill.

Interpretation of Terms.

XXXII. The following words and expressions in this Act shall have the several meanings hereby assigned to them, unless there be something either in the subject or in the context repugnant to such construction.

Words importing the singular number only shall include the plural number, and words importing the plural number only shall include the singular number:

Words importing the Masculine gender only shall include females:

The expression "Her Majesty's Courts" or "Courts" shall mean and include Her Majesty's Supreme Courts of Judicature at Bengal, Madras

and Bombay, and also the Court of Judicature of Prince of Wales' Island, Singapore and Malacca:

The word "Lunatic" shall include idiots and persons of unsound mind, and whether found such by inquisition or not:

The word "Guardian" shall mean father or testamentary guardian, or guardian appointed by any of Her Majesty's Courts (not being a special guardian appointed under the Provisions of this Act.)

Commencement of Act.

XXXIII. This Act shall commence and take effect from and after the tenth day of April, One thousand eight hundred and fifty-two.

Schedule referred to by the foregoing Act.

(*Date.*)

In the matter of A. B. late of in Banker (or as the case may be,) deceased.

Upon motion this day made into this Court by Mr. of Counsel for C. D. of the executor (*or* administrator) of the abovenamed A. B. (*or* upon the humble petition of C. D. of the executor (*or* administrator) of the said A. B. this day preferred unto the Supreme Court of Judicature at for the reasons therein contained,) it is ordered; that it be referred to the Master of this Court to take an account of the debts and liabilities affecting the *(personal or the real estate of the said A. B. or his moveable and immoveable estate, as the case may be,)* and to compute interest on such of the said debts and liabilities as carry interest after the rate of interest the same respectively carry; and the said Master is to cause an advertisement to be published in the Gazette and such other public papers as he shall think fit for the persons claiming in respect of any such debts or liabilities to come in before the said Master, and prove their debts and claims, and he is to fix a peremptory day for that purpose; and such of the creditors as shall not come in and prove their debts and claims by the time so to be limited, are to be excluded the benefit of this order; and it is ordered, that the Masters do distinguish debts from liabilities, and liabilities certain from liabilities contingent; and it is ordered, that the said estate of the said A. B. be applied in payment and satisfaction of such debts and liabilities of the said A. B. in a due course of administration; and for the better taking the said accounts and discovery of the matters aforesaid the parties are to produce before the Master, upon oath, all deeds, books, papers,

and writings in their custody or power relating thereto, and are to be examined upon interrogatories or *vivâ voce* as the said Master shall direct; and any of the parties are to be at liberty to apply to the Court as there shall be occasion.

ACT No. XIX OF 1852.

Passed on the 19th of March 1852.

An Act for securing the Abkarry Revenue of Madras.

For better securing the Abkarry Revenue of the Town and Suburbs of Madras, It is enacted as follows:

Regulation I, 1813 &c. repealed.

I. Regulation I of 1813, of the Madras Code, and so much of Clause 159, of an Act of Parliament numbered Chapter LII. of the Statutes passed in the thirty-third year of King George the Third, as relates to the sale of Arrack or other spirituous liquors within the Town of Madras, and to the punishment of unlicenced traders in spirits or spirituous liquors within the said Town, are repealed.

Collector to have charge of Abkarry revenue, subject to the Board.

II. The Collection of the Revenue arising from the retail sale of spirituous or fermented liquors within the Town and Suburbs of Madras, shall be under the charge of the Collector of Madras, who shall perform the duties connected therewith under the control of the Board of Revenue.

Collector may appoint Abkarry officers.

III. The Collector may appoint Conicopolies, Pygusts, Jemadars, Peons and other Officers for collection of the said Revenue and prevention of smuggling; and the Officers so appointed, besides their ordinary respective designations, shall be styled "Abkarry Officers."

Unlicensed retail sale of liquors punishable by fine.

IV. Every person who shall sell by retail any spirituous or fermented liquors within the Town and Suburbs of Madras without a licence for that purpose, under the hand and seal of the Collector of Madras, shall be liable to a fine not exceeding five hundred rupees for each sale, but this enactment shall not apply to wholesale dealers selling such small quantities of Beer, Wine, or Spirits, as may appear to the Collector to be intended only as samples.

What shall be deemed retail sale.

V. A sale of European Spirits in a less quantity than two and a half gallons old Wine measure, (*i. e*, one dozen quart bottles,) and of Arrack or Rum or any other Spirits manufactured to the Eastward of the Cape of Good Hope in a less quantity than one quart, and of English and Foreign Beer or Wine in a less quantity than six quart bottles, and of Toddy in a less quantity than one quart, shall be deemed a retail sale within the meaning of this Act.

Board of Revenue to regulate form of licences and what it shall specify.

VI. The Board of Revenue shall have authority at all times to regulate the form and provisions of licences to be granted under this Act and to alter and add to the conditions thereof; and each licence shall distinctly specify the kind or kinds of liquor the holder is authorized to sell, the manner in which and source whence such liquor is to be supplied to him, the excise duty, not exceeding three rupees and eight annas per gallon, which he shall pay upon it, whether it be provided by the Officers of Government or otherwise, or should a fee upon the licence be substituted for the said excise duty, the amount of such fee. The licence shall further specify the district or place, street or road, and house or shop in which the sale is to be carried on.

Punishment for selling above retail quantity.

VII. The sale of Arrack or Rum, or other country Spirits, or of Toddy, in quantities larger than those specified for each article in Section V. of this Act, is prohibited; and every person who shall act in breach of this prohibition, shall be liable to the fine prescribed in Section XV. for the illicit possession of these articles; but this prohibition does not apply to the sale of spirituous or fermented liquors imported into Madras under passes from the Collector, or other Officer duly empowered in that behalf, and supplied by wholesale to licensed retail dealers, or to the sale of Rum under bond for exportation by sea, and covered by a certificate to that effect.

Proviso.

Counterpart of Licence to be taken.

VIII. Every person taking out a licence for the retail sale of spirituous or fermented liquors or intoxicating drugs under this Act, shall execute a counterpart engagement in exact conformity with the tenor of such licence.

Recall of Licence, and punishment for illicit sale.

IX. The Collector may withhold or recall a licence, if any of the conditions upon which the licence is granted be not complied with, or, with the sanction of the Board of Revenue, for any other cause, giving fifteen days'

notice of such withdrawal; and any person selling by retail any spirituous or fermented liquor within the Town and Suburbs of Madras, whilst such licence is withheld, or after it is recalled, shall be subject to all the penalties provided by this Act for the unlicenced sale of spirituous or fermented liquors.

Permits to accompany liquor removed from place to place.

X. No spirituous liquor manufactured Eastward of the Cape of Good Hope, shall be removed from the Sea Custom House to any Warehouse, Shop, or private dwelling, or from one Warehouse, Shop, or private dwelling to another, without the Permit of the Collector of Madras, which Permit must accompany all liquors so removed; but persons having paid the Sea Custom Duty, shall be entitled to dispose of such liquor by wholesale for exportation beyond the limits of Madras and its Suburbs, such export to be made under permits to be granted by the Collector of Madras at his discretion, and on proof to his satisfaction that the spirits are intended to be exported.

Custody of distilled liquor prepared by European process imported into Madras

XI. All spirituous liquor manufactured by the European method of distillation shall, when imported into the Town and Suburbs of Madras by land, be placed under the charge of the Collector of Sea Customs, who will have them gauged and tested. The said liquors may be either kept in the custody of the Importer on his furnishing security for its exportation or sale, under the provisions of Section II Act XXXII of 1845, or in the joint custody of the Collector of Sea Customs and the Importer, or it may be deposited in the Sea Custom Warehouse on payment of the usual Warehouse rent. When kept in such joint custody, or deposited in such Warehouse as aforesaid, no security for its exportation or sale shall be required, and the amount and nature of the security required to be furnished when such liquors are kept in the custody of the Importer, shall be fixed by the Governor of Fort St. George in Council, who shall also determine the time to be allowed for its exportation.

When Licence for Lodging-house &c may be granted and when withdrawn.

XII. It shall not be lawful for the Justices to grant a licence to open or establish, or keep open any Lodging House, Boarding House, Eating House, Punch House, Coffee Room; Tavern, Hotel, or any other House of Public Entertainment within their jurisdiction, in which any spirituous or fermented liquor may be sold, to any person who has not taken out a licence for the retail sale of such liquor, and any such licence granted by the Justices shall become void whenever the licence for the retail of such liquor granted to such person, shall be witheld

or re-called by the Collector under this Act. Provided always that, on the representation of the Superintendent of Police to the Collector, that any such house of public entertainment as aforesaid is kept as a disorderly house, or that the keeper thereof is, for any reason, or in consequence of misconduct, (such reason or misconduct to be specially assigned by the Superintendent,) unfit to receive or retain any such licence, then and in such case the said Collector shall forthwith revoke any licence already granted by him to such keeper of any such house of public entertainment.

Arrears of tax &c. how recoverable.

XIII. The Collector, after demand made in writing, may levy any arrears of tax, duty, or fee, due on account of any licence granted under this Act, by distress and sale of the goods and chattels of the person from whom the same is due; provided that no such arrears shall be recoverable after the end of two years next after the same shall have become due, or next after an acknowledgment of the same in writing shall have been given by the person by whom the same is payable.

Licence to be forfeited for breach of conditions: and offender fined.

XIV. A breach of any of the conditions of a licence granted under this Act, shall, besides forfeiture of the licence, be punishable by a fine not exceeding Fifty Rupees, and such fine shall be recoverable from the licensed dealer, notwithstanding that such breach may have been owing to the default or carelessness of the servant or other person in charge of the shop or place of sale.

Persons having or carrying without pass, larger than retail quantity of liquor, to be fined.

XV. Any person, not being a licensed dealer, having in his possession, and any person carrying within the Town and Suburbs of Madras any greater quantity of spirituous or fermented liquors, (excepting English and Foreign Beer, Wine, and Spirits,) than the quantity specified for each article in Section V., and not being protected by a Pass or Permit from the Collector, or other Officer duly empowered in that behalf, shall be liable to a fine not exceeding Five Hundred Rupees.

And liquors &c. to be confiscated for illicit sale.

XVI. Beside the penalties above specified for the illicit sale, possession, and carrying of spirituous or fermented liquors, all such liquors found in the possession of any offender against this Act, shall be seized and confiscated, together with the Vessels, Packages and Coverings in which such liquors are found, and the animals and conveyances used in carrying them shall also be liable to seizure and confiscation.

Who may search house or shop of licensed dealer.

XVII. Any Abkarry Officer above the rank of Peon, may enter inspect, and search, at any time, by day or by night, for any of the purposes contemplated in this Act, the house or shop in which any licensed retail dealer shall carry on the sale of spirituous or fermented liquor under this Act.

Where licence shall be kept, to whom to be shewn, and penalty for non-production

XVIII. Every person, holding a licence for the retail sale of spirituous or fermented liquors, shall keep such licence at the house or shop specified in the licence, and shall shew the licence on the demand of any Abkarry Officer, who shall desire to see the same; and any licensed dealer, who shall refuse or be unable to produce his licence on the demand of any Abkarry Officer, shall be liable to a fine not exceeding Two Hundred Rupees.

Persons having liquor without pass may be detained &c.

XIX. Any Abkarry Officer may stop and detain any person having possession of or carrying in any Public Road, Street, Thoroughfare or place, or in any open shop, any spirituous or fermented liquors without a Pass, or otherwise liable to confiscation under this Act, and may seize the liquors, with the Vessels, Packages, and Coverings in which the liquors are found, and the animals and conveyances used in carrying them.(*a*)

Warrant may be issued for seizure of concealed liquor and of parties concerned.

XX. If the Collector has good reason to believe, either from information given by any Abkarry Officer, or other person, to be taken down in writing, or from his own knowledge, or from the proceedings in any other case, that any spirituous or fermented liquor liable to confiscation under this Act, is kept or concealed in any place, the Collector, by warrant under his hand, may empower any Abkarry Officer, above the rank of Jemadar of Peons, between sunrise and sunset, but always in the presence of a Constable or other Officer of the Peace, to enter into every such place where any such liquor is suspected to be kept or concealed, and to seize and carry away such liquor, and in case of resistance, to break open any door, and to force and remove any other obstacle to such entry, search, seizure or removal, as aforesaid, and to arrest and detain the owner or occupier of the premises, with all parties whom he suspects to be concerned in the unlawful keeping or concealing of such liquor whom he

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(*a*) As well as the person in whose possession they are found subject to the provision of this Act relative to arrest.—*Vide*, Section II. Act III. of 1856.

shall find on the premises. Provided that, where there is ground to suspect that such liquor is unlawfully concealed in any apartment of the women, in houses belonging to the classes whose women do not appear in public, the Officer charged with the execution of the Warrant, shall follow, as closely as may be, the rules for the seizure of property so concealed, adopted by the Supreme Court of Judicature at Fort St. George.

Proviso.

XXI. All Constables and other Ministerial Officers of the Peace, are required to aid the Abkarry Officers in the due execution of this Act, upon notice given, or request made by any such Abkarry Officer; and any Officer who, without lawful excuses, shall refuse or neglect to assist as aforesaid, on being required to do so, shall be liable to the penalty prescribed by Section XXIX of this Act for Abkarry Officers conniving at the escape of a person arrested under this Act.

Constables &c. to assist Abkarry officers, under penalty for refusal.

XXII. Whenever an Abkarry Officer, duly authorized under this Act, shall arrest any person, or shall seize any spirituous or fermented liquors, or shall e shop for the purpose of searching liquors, he shall carry the person arrested, with the illicit liquors seized, with all convenient despatch, to the Collector, and shall, within twenty-four hours thereafter, make a full report to the Collector of all the particulars. And the Collector, after such further inquiry as he may deem necessary, shall forthwith either release the person arrested, or send him in custody to the Superintendent of Police, or one of his Deputies.

Liquor seized and persons arrested to be brought before Collector, and after enquiry to be sent to Police Superintendent.

XXIII. Every person who shall maliciously give false information against any person, for being engaged in the unlicensed sale of spirituous or fermented liquors, or for having in his possession or carrying, or in respect of there being in any house or shop, any spirituous or fermented liquors, in contravention of this Act, shall be liable to a fine not exceeding Five Hundred Rupees, or to imprisonment in the Common Gaol, for a period not exceeding six months, or to both.

Punishment for giving maliciously false information.

XXIV. Every person who shall obstruct or molest any Abkarry Officer, or any person acting in aid of such Officer, in the due execution of this Act, shall be liable to a fine not exceeding Five Hundred Rupees, and such person shall be further liable, if any affray or breach of the peace shall happen in consequence of his resistance, on conviction of the same be-

Punishment for obstructing Abkarry officer &c.

fore a competent tribunal, to such punishment as is prescribed by Law for cases of affray and breach of the peace, in addition to the penalty above prescribed for resistance of process.

Punishment for neglecting to report seizures &c.

XXV. Any Abkarry Officer, who shall delay carrying to the Collector any person arrested, or any illicit liquors seized under this Act, or who shall neglect to report the particulars of an arrest, seizure, or search within twenty-four hours there-after, shall be liable to a fine not exceeding Two Hundred Rupees.

Punishment for vexatious seizures &c

XXVI. Any Abkarry Officer, who shall vexatiously and unnecessarily seize the goods or chattels of any person, on the pretence of seizing or searching for illicit spirituous or fermented liquors, or who shall vexatiously and unnecessarily arrest any person, or commit any other excess not required for the execution of his duty, shall be liable to a fine not exceeding Five Hundred Rupees.

Extension of provisions of certain Regulations and Acts

XXVII. The provisions regarding Distilleries and Stills in Sections IV., V., VI., Regulation I, of 1820 of the Madras Code, and Act XXXII. of 1845, shall apply and be in force within the Town and Suburbs of Madras, except that the powers vested in the Criminal Judge by Section IV, Clause 5, and Section VI,. Clause 9, Regulation I. of 1820, of the Madras Code, and in the Session Judge and Subordinate Judge of the Zillah, by Sections IV., V., Act XXXII. of 1845, shall be exercised within the limits of the jurisdiction of the Supreme Court by the Superintendent of Police.

Forms of Licence for Distilleries may be revised.

XXVIII. It shall be competent to the Governor of Fort Saint George in Council, or to any Officer duly empowered by him in that behalf, to revise, from time to time, the forms of licences to be granted under Section IV., Regulation I. of 1820, of the Madras Code, for the establishment of Distilleries for manufacturing Rum, Arrack, or other Spirits by process of distillation similar to the European process, and to introduce into such forms of licences such provisions and stipulations as may seem to be advisable, anything in Section II., Act XXXII. of 1845, to the contrary notwithstanding.

Punishment for unlawful release &c.

XXIX Any Officer employed in the Abkarry Department, who shall unlawfully release or connive at the escape of any person arrested under this Act, or connive at the sale of spirituous or fermented liquors without a licence, or by any licensed dealer contrary to the terms of such li-

ence, or act in a manner inconsistent with his duty, for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or broken, or the Abkarry Revenue be frauded, shall be liable to a fine not exceeding Five Hundred Rupees.

Punishment for offering and receiving bribes.

XXX. Any Officer employed in the Abkarry Department, who shall ask or take any gratuity not authorized by any law or order of Government, or of the Board of Revenue, in consideration of doing or of omitting to do any act in his official capacity, and any person who shall offer a bribe to any such Officer, in order to induce such Officer to act in a manner inconsistent with his duty, shall be liable, for every such offence, to a fine not exceeding Five Hundred Rupees.

Cases of seizures to be disposed of summarily by Superintendent of Police or Deputy.

XXXI. When any goods or chattels shall be seized by an Abkarry Officer, as liable to confiscation under this Act, such seizure shall, upon information exhibited by order of the Collector, be heard and determined in a summary manner, by the Superintendent of Police or one of his Deputies, who shall cause the persons to whom such goods and chattels belong, to be summoned to appear, and upon their appearance or default, shall examine into the cause of the seizure thereof and give judgment; and, if such judgment shall be for confiscation of the goods or chattels seized, shall issue his warrant to the Collector for the sale or disposal thereof, according to such orders as the Collector may receive from the Board of Revenue.

How unclaimed goods are to be disposed of.

XXXII. Whenever any goods or chattels shall be seized as aforesaid, and within one calendar month no person shall appear before the Collector to claim the same, the Superintendent of Police, or one of his Deputies, shall examine into the cause of the seizure, at a place and time, of which notice shall have been given by the Collector in the *Fort St. George Gazette*, and give judgment for the confiscation of such of the goods and chattels as, upon such examination, shall appear to him liable to forfeiture; and upon confiscation thereof, shall issue his warrant for the disposal of them, as if the owner had been summoned to attend before the said Superintendent or one of his Deputies.

Fines to be adjudged by Superintendent of Police or Deputy, and in default offender to be imprisoned.

XXXIII. All fines leviable under this Act shall be adjudged by the Superintendent of Police, or one of his Deputies, any of whom, upon information exhibited before him by order of the Collector, shall, within three calendar months next after the act by which the fine was incurred and not afterwards, summon the parties ac-

cused, and upon their appearance or default, shall examine into the matter, and upon due proof made thereof, by the voluntary confession of the parties, or by the oath, or solemn affirmation, (in cases wherein a solemn affirmation is receivable by law instead of an oath,) of one or more credible witnesses, shall give judgment accordingly; and, in default of payment of any fine to which an offender is adjudged, he shall be liable, by Warrant of the said Superintendent of Police or one of his Deputies, to imprisonment in the Common Gaol, for a period not exceeding six months, or until the fine be sooner paid.

Punishment for repeated offences against this Act.

XXXIV. Whenever any person shall be convicted of an offence against this Act, after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment in the Common Gaol, for a period not exceeding six months, and a like punishment of imprisonment not exceeding six months, shall be incurred in addition to the punishment which may be inflicted for a first offence upon every subsequent conviction after the second.

Fine and Proceeds of sale of liquor &c to be awarded to Abkarry officers and informer.

XXXV. One-half of all fines levied from persons convicted of the illicit possession, carrying, or sale, of spirituous or fermented liquors, and of the proceeds from the sale of liquors, vessels, packages, conveyances, stills, and other things confiscated under this Act, shall, upon adjudication of the case, be awarded in such proportion as the Superintendent of Police or one of his Deputies, adjudicating as aforesaid, may think proper to the Officer or Officers who apprehended the offender, or seized the illicit liquors or other articles, and the other half shall be given to the informer; and if no fine be realized, the Board of Revenue may grant such reasonable reward, not exceeding the sum of Two Hundred Rupees, as may appear to them fit. Provided that the Board of Revenue may determine, by General Order, what class of Abkarry Officers shall receive rewards, and what classes shall have no title to share therein.

How fines otherwise imposed may be disposed of.

XXXVI. All fines levied under this Act, the disposal of which is not especially provided for, shall belong to Government; but the Officer adjudicating the case may grant any portion thereof not exceeding one-half, as rewards to informers, or as compensation to parties injured by any proceedings under this Act.

XXXVII. No writ of *Certiorari* shall be issued at the suit of any

No writ of certiorari to be issued, and judgment to be quashed only for error in law.

party out of the Supreme Court of Judicature at Fort St. George, to supersede, stay, remove, or in anywise affect any information or judicial proceeding before the Superintendent of Police or any of his Deputies in pursuance of this Act; and no judgment thereupon shall be quashed, except for error of law apparent on the face of the judgment.

Actions against Collector to be instituted in Chingleput Courts: previous notice to be given to defendant &c.

XXXVIII. All actions and prosecutions to be instituted against the Collector or any Abkarry Officer, or any person acting in aid of any such Officer, for anything done in pursuance of this Act, shall be tried and determined in the Civil Courts established by the East India Company in the Zillah of Chingleput, notwithstanding that the cause of action, in respect of which such action is brought, arose or the defendant therein reside, within the limits of the Town of Madras, and every such action shall be brought within three calendar months after the fact committed and not afterwards, and notice in writing of such action, and of the cause thereof, shall be given to the defendant, one calendar month at least before the commencement of the action, and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if after action brought, a sufficient sum of money shall have been paid into Court with costs, by or on behalf of the defendant.

Contempt how punishable-subject to appeal.

XXXIX. The Collector, in respect of the duties to be performed by him under this Act, shall have power to punish any contempt committed in his presence in open cutcherry by the imposition of a fine not exceeding Two Hundred Rupees, commutable if not paid, to imprisonment in the Common Gaol for a period not exceeding one month. Provided that an appeal from any order passed under this Section shall lie to the Board of Revenue, and the decision of the Board thereon shall be final.

Collector of Madras &c. defined.

XL. The following words and expressions in this Act shall have the several meanings hereby assigned to them, unless there be something either in the subject or context repugnant to such construction, that is to say, words importing the singular number only shall include the plural, and words importing the plural number only shall include the singular, and words importing the masculine gender only, shall include females. The words "Collector of Madras," shall mean the Officer who may at any time

be charged with the superintendence and collection of the public revenue within the Town of Madras, although such Officer may not be officially designated "Collector of Madras" The words "Town and Suburbs of Madras," shall include the Town of Madras, the limits of the Supreme Court of Judicature at Madras, as declared and described by the 12th Section of Regulation II. of 1802, of the Madras Code, and the district comprized within eight miles beyond any part of those limits.

ACT No. XX OF 1852.

Passed on the 27th of March 1852.

An Act to facilitate the Acquisition of Land needed for public purposes in the Presidency of Fort St. George.

Governor in Council, to declare by Minute that the land is needed for public purpose:

I. Whenever it shall appear to the Governor of Fort St. George in Council that any land is needed for a public purpose, he shall make a declaration to that effect in a Minute of Council, and such declaration shall be conclusive evidence that the purpose for which the land is needed is a public purpose.

And order it to be taken possession of if objected to by parties interested.

II. When a declaration has been made by the Governor in Council that any land is needed for a public purpose, if there shall be any hindrance to the immediate acquisition of such land by purchase from the parties interested therein, it shall be competent to the Governor in Council to order the land to be taken possession of on the part of Government, and applied to the purpose for which it is needed, leaving claims for compensation for the land to be determined as hereinafter provided.

Order how to be executed:

III. When such order is passed by the Governor in Council it shall be sent to the Collector of the District in which the land lies, or to such other Officer as the Governor in Council shall think fit to appoint to carry it into execution; and the Collector, or other Officer so appointed, shall cause the land ordered to be taken to be marked out and measured, and possession to be taken thereof on behalf of Government,

Government to be free from all liabilities,

and the land shall thenceforward be vested absolutely in the Government, free and clear of all other estates, rights, titles, remainders, reversions, limitations, trusts

and interests, and also of all mortgages, liens, or incumbrances whatsoever, of and in the land so taken as aforesaid; and any suit which may be instituted to recover the land so taken by Government, in any Court of Judicature, shall be dismissed with costs. Provided always, that nothing herein contained shall affect the liability of the party who may receive the value of any land so taken by Government, without having a good title to the same.

But the parties are not.

IV. As soon as the land has been marked out, the Collector, or other Officer appointed as aforesaid, shall cause the order in Council to be affixed in some conspicuous place upon the land, and published by proclamation in the neighbouring bazars and villages, with a citation, calling on all parties interested in the land to appear before him in person, or by authorized agents, on a certain day, not less than fifteen days after the date of citation, and to state the nature of their interests in the land required, and the amount and particulars of their claims to compensation for the same.

Order to be published, and parties cited to appear.

V. It shall be competent to the said Collector, or other Officer appointed as aforesaid, to admit any such claims that appear to him to be valid, and if he and all the parties interested in the land agree as to the compensation to be allowed to them respectively, to pass an award for the same.

Valid claims to be admitted and compensation awarded if agreed to:

VI. If the said Collector or Officer shall judge any of the claims preferred to be inadmissible, and the parties interested in the land or any of them shall nevertheless persist in such claims, or if the said Collector or Officer, admitting the interests claimed, shall object to the compensation demanded for the same as excessive, the points in dispute shall be referred to the determination of arbitrators, to be appointed in the manner hereinafter provided.

And if not agreed to, arbitrators to be appointed.

VII. Two persons shall be chosen to act as arbitrators on the part of Government, by the Collector or other Officer duly appointed as aforesaid, and the party or parties claiming to be interested in the land taken shall be called upon by the said Collector or Officer to elect, within fifteen days, two persons to act as arbitrators on his or their part. If there be several parties interested as aforesaid, and they cannot agree within the required period in the election of persons to act as arbitrators on their behalf, then and in that case, each of them shall nominate one person whom he may desire to act on his behalf, and the

Arbitrators how to be appointed.

said Collector or Officer shall choose by lot, out of the persons so nominated by the parties aforesaid, or by any of them, two persons to act as arbitrators on behalf of the parties interested in the land. If only two persons shall be so nominated by the parties interested in the land, they shall be the arbitrators on behalf of such parties, whether the whole of the parties interested as aforesaid may or may not have been concerned in their nomination. If only one person shall be so nominated, then only one of the persons selected to act as arbitrators on the part of Government, shall be employed on the duty. If the parties interested in the land shall refuse or neglect, or if, by reason of minority, lunacy or absence from the Presidency, they shall be unable to make any nomination within the required period, then the said Collector or Officer shall and may select two impartial persons to arbitrate the matter between Government and the parties interested in the land.

Appointment of umpire.

VIII. Before the arbitrators proceed to arbitrate, they shall be required by the said Collector or Officer, to appoint an umpire for the decision of any points whereon they may differ in opinion, when the voices on each side shall be equal. If the arbitrators cannot agree in the selection of an umpire, the said Collector or Officer shall be authorized to choose some person to act as such.

Decision of umpire to be conclusive.

IX. In cases wherein the arbitrators may differ in opinion, if the voices on each side shall be equal, the decision of the umpire on the point of difference shall be conclusive: in all other cases, the opinion of the majority of arbitrators shall determine the award.

Under what control arbitrators are to be placed.

X. The arbitrators shall hold their inquiry under the general superintendence of the Collector or other Officer appointed as aforesaid, who shall be competent to exercise towards them such powers and authority, for the purpose of securing their attendance, and the due completion of their award, as the Courts of Judicature may legally exercise towards persons summoned as witnesses before them, for the purpose of compelling such witnesses to attend and give evidence. It shall further be competent to the Officer presiding, in the event of any unnecessary delay on the part of arbitrators in determining any question referred to them, to call upon them to make their award within a specified time, and in default thereof, to refer such question to the umpire for his decision.

XI. The said Collector, or other Officer appointed as aforesaid,

How witnesses are to be summoned &c.,

shall, on the application of the arbitrators, summon any witnesses whom the arbitrators may call for, and whom the parties may not be able to produce before them without such process. He shall also cause the proper forms of affirmation to be executed by any witnesses whom the arbitrators may desire to examine upon affirmation, or he may empower the arbitrators to administer or cause the execution of such affirmation, if the witnesses cannot with convenience attend before him.

Punishment for disobedience and perjury.

Any witness who shall refuse or omit to appear when duly summoned by such Collector or Officer, or who shall appear but shall refuse to execute the affirmation to be administered as aforesaid, or who shall refuse to give evidence, shall be liable to the same punishment which would be incurred under the Law by a witness refusing to appear or give evidence before a Court of Justice. Any person giving intentionally and deliberately a false deposition, under a solemn affirmation in any case referred to arbitration as above, and upon a point material to the issue thereof, shall be held to be guilty of perjury, and shall be liable to the penalties prescribed for that offence by Law; and any person causing or procuring another person to commit the offence of perjury, as above described, shall be guilty of subornation of perjury, and punishable according to Law.

Parties may be compelled to produce title deeds, accounts, &c.

XII. It shall also be competent to the Collector, or other Officer appointed as aforesaid, to demand from the parties interested in the land so taken as aforesaid, the production of any accounts, title-deeds, or other documents which may be required by the arbitrators for the purposes of their inquiry, and in the event of such accounts, title-deeds, or documents being withheld, and the fact of their existence being proved by information given upon solemn affirmation, to order the seizure of such accounts, title-deeds, and documents wherever they may have been deposited, in the manner prescribed by Section IX. Regulation IX. of 1822 of the Madras Code, and to exercise for that purpose the powers thereby vested in Collectors.

How arbitrators are to proceed in the inquiry and on what to decide.

XIII. The arbitrators shall take into consideration the statements of the parties interested in the said land, and the objections of the Collector or other Officer aforesaid on behalf of Government, and after examining the evidence offered on both sides, and making any further inquiry that may appear to them necessary, shall pass their award allowing or disallowing the interests claimed, and determining the total

amount of compensation to be given for the interests allowed, the mode in which it is to be given, and, if to be given to more than one party, the shares of the total compensation which each party shall be entitled to receive.

Award to be conclusive unless set aside by Civil Court for corruption.

XIV. The award of the arbitrators, or of the umpire, if he shall be called upon to make an award, shall be binding and conclusive both upon the Government and the parties interested in the land, as respects the gross amount of the compensation to be paid by Government, unless the award shall be set aside by the Civil Court of the zillah upon a charge of corruption against the arbitrators or the umpire, as the case may be, brought by either party, and proved, after due investigation, to the satisfaction of such Court; in which case the matter shall be referred for the determination of a second set of arbitrators, to be chosen in the same manner as the first, and their decision, whatever it may be, shall be final. No petition to set aside an award made under this Act shall be received by the Civil Court of the zillah, unless it be presented within thirty days from the date of the award complained of; and said petition shall be presented on stampt paper of the value used for miscellaneous petitions, and shall be accompanied with a copy of the award objected to. The award of the arbitrators or umpire shall also be binding as respects the shares to be paid to the several parties interested in the land, unless upon a suit instituted within thirty days from the date of the award, in a competent Court, by any of the parties concerned, to alter the apportionment made by such award, an injunction shall be issued to suspend the payment until a decree is passed in the case. (*a*)

Second set of arbitrators to be chosen.

Petition when to be presented.

Government to hold compensation in deposit when arbitrators shall so direct.

XV. If any question arises as to the previous possession of or title to any land taken by Government under this Act, or if the parties or any of them interested in the land, are minors, lunatics, or absent as aforesaid, and are not represented by their guardian, committee, attorney, or other person authorized in that behalf, or if there exist other grounds which, in the judgment of the arbitrators, render it improper to make immediate payment of the compensation awarded by them, or of any part thereof, to any of the parties interested in such

(*a*) The powers here given may be exercised by Supreme Court when land within its jurisdiction is concerned—Act I. of 1854, Section II.

land, the said arbitrators, shall certify the same to the said Collector or Officer, under whose directions they may act, and in such case, or if for any such reason, or any such ground as aforesaid, the said Collector or other Officer shall deem immediate payment improper, then the amount of compensation payable shall be held in deposit by Government, until the parties interested in the said land or some of them shall obtain an order of a competent Court for the payment of the same and interest (if any) to them. All sums held in deposit as aforesaid, exceeding in amount the sum of Five Hundred Rupees, shall be invested in Government Securities. (*b*) (*c*)

Money to be invested in Government Securities.

XVI. On the close of the inquiry, the arbitrators or umpire shall deliver to the Collector, or other Officer appointed as aforesaid, a full and complete report and award upon the questions submitted to their arbitration, under their respective signatures, specifying the amount of compensation to be granted, and, (except where under Section XV. it may appear proper to suspend payment,) the parties to whom it is to be made, and the proportions to be paid to each respectively, with a solemn declaration subscribed thereto, that the award so given, is, to the best of their judgment, true and impartial, and according to the evidence adduced before them, and they shall at the same time deposit with the said Collector or Officer the whole of their proceedings.

How the award shall be made.

XVII. All suits and proceedings instituted against Government to obtain compensation for land taken as aforesaid, other than such petitions to set aside awards as aforesaid, shall be dismissed with costs, but nothing herein contained shall affect the rights of any party to recover the value of any land taken by Government from any person who may have received the same without having any title thereto.

Proceedings against Government for compensation to be dismissed.

XVIII. In the case of land declared by a Minute of the Governor in Council to be needed for a public purpose being acquired by the Government by bargain with and purchase from the parties apparently interested therein, the Collector, or Officer appointed by Government to receive possession of the same, shall cause proclamation to

Purchase of land from parties apparently interested to be valid after publication thereof.

(*b*) The Government Securities are to be deposited with Government Agents at Fort St George—Act I. of 1854, Section III. But this Agency has been abolished by a Notification of the Government of India, dated 26th January, 1855, and republished for general information in the *Fort St. George Gazette* under date the 23d February, 1855, page 238.

(*c*) The right to receive sums in deposit less than 500 Rupees may be determined by the Court of Small Causes.—ib. Sec. V.

be made in the manner prescribed in the fourth Section of this Act, of the transfer of the land to Government, by the said parties and requiring all other persons who may claim any right, title, or interest in such land, to prefer their claims within one calendar month after such proclamation made; and any claims that may be preferred shall be dealt with under Section V. or under Section VI. and the following Sections of this Act. Provided always, that if no claim shall be made within one calendar month after such proclamation as aforesaid, the said land shall vest absolutely in the Government, free and clear of all other estates, rights, titles, remainders, reversions, limitations, trusts, interests, mortgages, liens or incumbrances whatsoever, of and in the said land so purchased; and any suit to recover the land so purchased by Government, or to obtain from Government compensation for the loss thereof, which may be preferred in any Court of Judicature, shall be dismissed with costs. But nothing herein contained shall affect the liability of the party who may receive the value of any land purchased by Government without having a good title to the same.

And Government free from liabilities.

XIX. In cases referred to arbitration, under the provisions of this Act, any necessary expense which may attend the inquiry of the arbitration, whether for the diet of witnesses or otherwise, shall be paid by Government.

Necessary expences to be paid by Government.

XX. The provisions of Act XLII. of 1850, shall be applicable and in force within the Madras Presidency; and the said Act shall be construed as if instead of the words and figures "Regulation I. of 1824 of the Bengal Code," or "the said Regulation" therein mentioned, the number and title of this Act had been therein inserted. (*a*)

Provisions of Act XLII, 1850 extended.

(*a*) This Act is inserted here for the sake of uniformity:—

ACT No. XLII. OF 1850.

Passed on the 20th of December 1850.

An Act for giving additional facilities for Public Works in Bengal.

Whereas, by Regulation I. 1824, of the Bengal Code, power was given for taking any land in the territories subject to the Presidency of Fort William in Bengal, which is needed for any public purpose, according to the forms therein prescribed, but it is expedient for hindering needless delay in making the Railway about to be constructed in the said Presidency under the sanction of Government, and also in any other public work, that more summary power should in certain cases be given for gaining immediate possession of the land needed for such public work, It is declared and enacted as follows:

Preamble.

I. Any Railway made in the said territories, under the sanction of Government, is a public work within the meaning of the said Regulation.

Railways are public works.

XXI. The following words and expressions in this Act shall have the several meanings hereby assigned to them, unless there be something either in the subject or context repugnant to such construction, (that is to say,)

Interpretation of certain expressions.

II. The persons employed in any public work, with their servants and workmen, may enter upon any land for surveying the ground, and in the case of a road, canal or railway for setting out the intended line thereof, and in the case of any intended road, canal or railway, may mark the intended line by cutting a trench, or placing landmarks along the line; and, where otherwise the survey cannot be completed, and the line marked, may, with the sanction of the Government, or of any officer appointed by Government for this purpose, cut down and clear away any part of any jungle or tope of trees in the direction of the intended line. Provided that no person shall enter the curtilage of any house under colour of this Act without consent of the occupier, unless between sunrise and sunset, and after due notice given to such occupier.

Ground required may be surveyed marked and cleared.

III. It shall be the duty of the officer so appointed by the Government to take account of all necessary damage done as aforesaid, that it may be allowed for, in awarding compensation to the owners and occupiers of land.

Damage done to be taken into account.

IV. Whoever wilfully obstructs any person in lawfully setting out the line of any road, canal, or railway, or wilfully destroys, damages, or displaces any such landmark, or effaces, or fills any such trench, shall be liable to be imprisoned for any term not exceeding six months, and also to fine not exceeding two hundred Rupees.

Penalties for obstructing employés or destroying landmarks.

V. Whenever the said officer shall have recorded his opinion that the land in dispute is needed immediately for the purpose of the public work, he shall be empowered to take immediate possession thereof on behalf of the Government, leaving the amount and distribution of the consideration to be paid for it, if not agreed to by private bargain, to be afterwards ascertained according to the said Regulation; and such possession may be enforced and the obstruction of it punished in like manner as if the land so taken had been sold in execution of the decree of a Civil Court: and all Collectors, Magistrates and other officers shall, if necessary, give the like aid as they would be bound to give for enforcing the speedy and complete execution of any such decree.

Land to be taken possession of, and compensation afterwards settled

VI. If the said Officer is opposed or impeded in taking immediate possession of such land as in his opinion is immediately needed, he shall apply to the Magistrate of the district, who shall enforce the surrender of the land.

Magistrate to enforce surrender of land.

VII. The powers of the said Regulation and of this Act shall extend, in the case of any road, canal or railway, to authorize the temporary occupation of any land not more than one hundred yards from the centre line of the road, canal or railway as marked on the ground, for taking earth or other materials for making or repairing the road, canal or railway, or for depositing thereon superfluous earth or other materials, or erecting tempo-

Land may be taken for temporary occupation and compensation paid.

Words importing the singular number only shall include the plural, and words importing the plural number only shall include the singular.

Words importing the masculine gender only shall include females.

The word "land" shall extend to tenements and hereditaments of any tenure, and all houses, buildings, walls, or appurtenances thereupon, as well as land.

The expression "party or parties interested in the lands" shall be understood to mean all parties interested in the land either for life or for years, or in remainder, reversion, or succession, and all trustees, *cestui que* trusts, mortgages, incumbrancers, leaseholders, or tenants, not being tenants by the month or at will of such land.

ACT No. XXIII OF 1852.

Passed on the 7th of May 1852.

To authorize and empower the Governors in Council of the respective Presidencies of Madras and Bombay to mitigate or discharge fines, amerciaments, &c, imposed by the Supreme Courts, or any other Courts of Justice at Madras and Bombay respectively.

Preamble.

Whereas the Supreme Court of Judicature at Madras now hath certain power and authority to mitigate and discharge fines, amerciaments, forfeitures and sums of money ordered, adjudged, set, imposed, or awarded by the said Supreme Court

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rary buildings and workshops thereon, or any land which may be needed for making temporary roads from any public road to the intended line of railway, and for the temporary occupation of any such land, and for any permanent damage done by such occupation and use of the land, including the full value of all clay, stone, gravel, sand and other materials taken thence, compensation shall be paid to and among all persons having an interest therein, to be ascertained in case of disagreement in the same manner as compensation for land permanently taken.

Who may execute award &c.

VIII. The local Government, if it thinks fit, may empower any such officer to execute any award made under the said Regulation, and to do all things necessary for completing the business, of taking and paying for the said land, and for settling all disputes concerning it, without sending any report to the local Government.

Claims for lands to be preferred within five years

IX In every case in which any land has been or shall be taken by the Government for any public work, otherwise than according to the said Regulation, such land, after the lapse of five years, without any claim preferred for the recovery thereof in any competent Court,

of Judicature at Madras upon, or against, any person or persons whomsoever for or by reason of any offences, misdemeanors, defaults, contempts, neglects, or forfeitures whatsoever. And whereas the Supreme Court of Judicature at Bombay hath certain power and authority to mitigate and discharge fines, amerciaments, forfeitures, and sums of money ordered, charged, adjudged, set, imposed, or awarded by the said Supreme Court of Judicature at Bombay upon, or against, any person or persons whomsoever for or by reason of any offences, misdemeanors, defaults, contempts, neglects, or forfeitures whatsoever: And whereas it is expedient that such respective powers and authorities should be exercised by the respective Governors in Council of the Presidencies of Madras and Bombay respectively, It is hereby enacted as follows:

Abolishes the power of Courts of Justice to mitigate fines &c.

I. The powers and authorities respectively exercised by the said Supreme Courts at Madras and Bombay, or by any other Courts of Justice at Madras and Bombay respectively, to mitigate, and discharge fines, amerciaments, forfeitures and sums of money ordered, charged, adjudged, set, imposed or awarded by such Supreme Courts, or by any Court of Justice at Madras and Bombay aforesaid, upon, or against, any person or persons whomsoever, for or by reason of any offences, misdemeanors, defaults, contempts, neglects, or forfeitures whatsoever, shall henceforth respectively cease and determine.

And empowers Government to do so:

II. It shall be lawful for the Governor in Council of the Presidency of Fort St. George at Madras to mitigate, or discharge all fines, amerciaments, forfeitures, and sums of money which may have been, or may hereafter be ordered, adjudged, set, imposed, or awarded by the said Supreme Court of Judicature at Fort St. George at Madras aforesaid, or by any other

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or under the said Regulation I. 1824, or this Act, shall vest absolutely in the East India Company, freed and discharged from all other claims thereunto.

How time is to be calculated.

X. The said term of five years shall be reckoned from the date of this Act, in the case of land heretofore taken, and in the case of land hereafter taken from the time of taking possession thereof.

What course is to be pursued when Plaintiff obtains judgment for interest in land.

XI. If within the said term of five years any suit is begun, upon which final judgment shall be obtained establishing the right of the Plaintiff to any interest in any such land, then, instead of the said land, there shall be paid to the person obtaining such judgment the value of his interest in the said land, at the time when possession thereof was taken, with interest thereon at the usual and lawful rate, to be ascertained and settled in case of dispute by arbitration in the manner described for disputed claims by the said Regulation.

Court of Justice, or other person or persons there, having lawful authority to order, charge, adjudge, set, impose, or award fines, amerciaments, ransoms, forfeitures, penalties, or sums of money, for or by reason of any offences, misdemeanors, defaults, contempts, neglects or forfeitures whatsoever, as the Court of Exchequer in England, or the Chancellor or Barons thereof, may or can lawfully do in England. And the said Governor in Council may, by any order, cause a share or proportion of any fine imposed, on any person or persons for any delinquency or misdemeanor prosecuted to judgment, to be paid over to the prosecutor towards defraying his expenses occasioned thereby, as such Governor in Council shall think fit and expedient.

As well as to award prosecutor a proportion of the fine.

III. * * * *

[*This section is omitted as it gives the above power to the Bombay Government.*]

ACT No. XXIV. OF 1852.

Passed on the 14th of May 1852.

For amending and explaining Act XIV. 1839, and for the better prevention of crimping.

For the amending and better understanding of Act XIV. 1839, and for the better prevention of the offence of crimping as hereinafter defined, It is declared and enacted as follows:

I. Any person who by force or fraud, unlawfully detains in any place or decoys to any place any Native of India, with intent to force or prevail upon him to enter into any service, or contract for service to be performed out of the Territories under the Government of the East India Company into which he was not minded to enter, without such force or fraud, or who, by means of false imprisonment, intoxication, intimidation, force or fraud, causes any Native of India to enter into any such service or contract for service, or who attempts, by force or fraud or by any false promise, pretence or representation, to cause any Native of India to depart either by land or water from the Territories under the Government of the East India Company, is a crimp, and guilty of crimping, within the meaning of this Act.

Defines who is a crimp and guilty of crimping.

II. The departure of any person out of the Territories under the Government of the East India Company, by land or water, is Emigration from the said Territories within the meaning of Act XIV. 1839, and of this Act.

Defines emigration.

Further provides who shall not be liable to penalties of Act XIV of 1839 and who deemed a crimp

III. After the passing of this Act no person shall be liable to the penalties of Act XIV. 1839, for making, in good faith, any contract with any Native of India, for labour to be performed in any Foreign Settlement on the mainland of India, or for knowingly abetting or aiding any Native of India in emigrating from the said Territories to any such Foreign Settlement. Provided that if any person shall make any contract with any Native of India for service or labor to be performed by such Native out of the Territories under the Government of the East India Company, or cause any Native of India to depart from the Territories under the Government of the East India Company, or knowingly aid or abet such Native of India in emigrating from the said Territories to any such Foreign Settlement with intent that such Native shall afterwards depart from India, such person shall be deemed to be a crimp and guilty of crimping within the meaning of this Act, and proof of the subsequent departure of such Native from India, from any place out of the Territories under the Government of the East India Company within the period of six months from the time of the departure of such Native from the said Territories under the Government of the East India Company, shall be *prima facie* evidence of such intent.

Punishment for crimping

IV. Every crimp within the meaning of this Act is liable to be imprisoned for a term not exceeding six calendar months, and to pay a fine not exceeding five hundred rupees.

Punishment for inducing emigration by improper means.

V. Every person who shall, by means of intoxication, false imprisonment, or intimidation, or by means of any false promise, pretence or representation, force or decoy any Native of India out of the Territories under the Government of the East India Company, or fraudulently cause any such Native to depart from the said Territories, shall be liable to be imprisoned for a term not exceeding three years.

Hard labor may be awarded with imprisonment.

VI In every case in which under this Act imprisonment may be awarded for any offence, it shall be lawful for the Court, who may award such imprisonment, to sentence the offender to be kept to hard labor during the whole or such period or periods of such imprisonment as to such Court shall seem meet.

VII. In every case in which an offender shall be liable to be im-

Same to persons punished under Sec II, Act XIV. 1839.

prisoned under Section II. of Act No. XIV. of 1839, such offender shall be liable to be imprisoned, or imprisoned and kept to hard labor for a term not exceeding three months for every Native contracted with, provided that such imprisonment shall not in any case exceed six months for any one offence.

Additional punishment for specified offences.

VIII. In every case in which any person shall commit an offence under Section II. of Act XIV. 1839, as explained and amended by this Act, after having been previously convicted, either before or after the passing of this Act, of an offence under that Section, such person shall be liable, upon conviction before a criminal Court of competent jurisdiction, to be imprisoned, or imprisoned and kept to hard labor for any period not exceeding one year, and in every indictment, information or other proceeding for such an offence committed after such previous conviction, it shall be sufficient, after describing the offence, to state that the offender was at a certain time and place convicted of an offence under Section II. of Act XIV. 1839, without otherwise describing such previous offence or conviction, and a certificate of the previous conviction, purporting to be signed by the Officer having the custody of such previous conviction, or by the deputy or legally authorized Assistant of such Officer, shall, with proof of the identity of the person of the offender, be sufficient *primâ facie* evidence of the first conviction, without proof of the signature or official character of the person appearing to have signed such certificate.

Extends term 'Magistrate.'

IX. The term "Magistrate" in Act XIV 1839, shall extend to Joint Magistrates and persons lawfully exercising the powers of a Magistrate.

ACT No. XXX. OF 1852.

Passed on the 16th of July 1852.

An Act for the Naturalization of Aliens.

Whereas it is expedient to provide for the Naturalization of Aliens resident in the Territories under the Government of the East India Company, It is enacted as follows :—

Any resident may memorialize for naturalization.

I. Any person whilst actually residing in any part of the territories under the Government of the East India Company may present a memorial to Government, praying that the privileges of Naturalization may be conferred upon him.

What memorial shall state.

II. Such memorial shall state to the best of the knowledge and belief of the memorialist, his age, place of birth, place of residence, profession, trade or occupation, the length of time during which he has resided within the said territories, that he is settled in the said territories or is residing within the same with intent to settle therein, and any other particulars which the Government may require to be stated therein, and such memorial shall be in writing and signed by the memorialist, and accompanied by an affidavit sworn by him, verifying the truth of the statements contained therein.

Govt. to enquire into circumstances of the case.

III. The memorial shall be considered by the Government to whom it shall be presented, who shall inquire into the circumstances of the case, and may require such evidence either by affidavit or otherwise as they may deem proper in addition to the before-mentioned affidavit of the memorialist to prove the truth of the statements contained in such memorial.

Govt. to grant privileges by certificate.

IV. The Government may, if they shall think fit, issue a certificate in writing reciting such of the contents of the memorial as they may consider to be true and material, and granting to the memorialist all the rights, privileges and capacities of Naturalization under this Act, except such rights, privileges or capacities, if any, as may be specially excepted in such certificate.

Certificate &c. to be filed.

V. The certificate shall be delivered to the memorialist; and a copy or duplicate thereof, together with the memorial upon which the same shall be obtained, and any affidavit which may accompany such memorial or be produced in support thereof, shall be filed by the Secretary to the Government, or such other officer as the Government may direct; and such Secretary or officer shall keep an alphabetical list of all persons who may be naturalized by such Government.

When Govt. may annul or partially annul such certificate.

VI. If any material statement contained in such memorial shall be false, the Government may, if they think fit, by an order in writing, declare the certificate issued upon such memorial to be null and void to all intents and purposes, except such purposes, if any, as may be specially excepted in such order; and from and after such order all the rights, privileges and capacities derived through such certificate shall cease to exist.

Fees payable.

VII. Such fees shall be payable in respect of the proceedings hereby authorised as shall be fixed by the Government.

Certificate to confer rights of natural born subject.

VIII. Upon obtaining such certificate, and taking and subscribing the oath as hereinafter prescribed, the memorialist shall within the said Territories under the Government of the East India Company be deemed a natural born subject of Her Majesty as if he had been born within the said territories, and shall be entitled within the said territories to all the rights, privileges and capacities of a subject of Her Majesty born within the said territories, except such rights, privileges and capacities, if any, as may be specially excepted in such certificate.

But not so as to affect jurisdiction of Courts.

IX. Nothing in this Act contained shall be construed so as to deprive the Courts of the East India Company of jurisdiction over any such naturalized person, or to give to the Courts of Her Majesty any jurisdiction over any such person not otherwise subject to such jurisdiction.

Oath to be taken and subscribed

X. Within sixty days from the day of the date of such certificate the memorialist named in such certificate shall take and subscribe the oath contained in the Schedule annexed to this Act.

By whom oath is to be administered, certified and filed

XI. Such oath, as well as any other oath or affidavit required by this Act, may be administered by any Magistrate or Justice of the Peace within the limits of his jurisdiction, or by any other person to be appointed for that purpose by Government, and the person who shall administer the oath mentioned in the Schedule to this Act annexed shall grant to the memorialist a certificate in writing of his having taken and subscribed such oath, and of the date of his taking and subscribing the same, and shall forward to the Government the oath so taken and subscribed together with a duplicate of such certificate, which oath and duplicate certificate shall be filed and kept with the memorial.

Defines Govt. &c.

XII. The word "Government" in this Act shall be deemed to mean the person or persons for the time being lawfully entitled to administer the executive Government in that part of the said territories in which the memorialist shall reside at the time of presenting such memorial. The word "Magistrate" shall include any person lawfully exercising the powers of a Magistrate, and words denoting the masculine gender shall include the feminine.

XIII. In every case in which the word "oath" or "affidavit" is used in this Act, an affirmation to the same effect as the oath or affidavit required shall be sufficient in cases where the person required to make such oath or affidavit shall be a person allowed by law to affirm in civil cases, and in every such case such affirmation shall be made before the person authorized to administer the oath, and the word "oath" or affidavit wherever used in this Act shall include such affirmation.

Permits affirmation instead of oath &c.

SCHEDULE.

OATH.

I, A. B., of (*here state the description of the party*) do swear (*or being one of the persons allowed by law to affirm in civil cases, do affirm,*) that I will be faithful and bear true allegiance to the Sovereign of the United Kingdom of Great Britain and Ireland, and of these territories as dependent thereon, and that I will be true and faithful to the East India Company.

(Signed) A. B.

ACT No. XXXII. OF 1852.

Passed on the 20th of August 1852.

An Act to facilitate the prosecution of certain Ministerial and Police Officers for certain Criminal Acts.

Whereas it is expedient to enable the local Governments, and the head Officers of departments or offices under Government, to prosecute their subordinate ministerial or police officers for acts of corruption, extortion, embezzlement or other malversation, whether or not any charge be preferred by an aggrieved private party in respect of such acts, It is enacted as follows:

Preamble.

I. Whenever the local Government, or the head officer of a department or office under Government, shall be of opinion that there are good grounds for making a public enquiry into the truth of any imputation of corruption, extortion, embezzlement, or other malversation committed at any time during tenure of office, by any ministerial or police officer, subject to the jurisdiction of the Courts of the East India Company, and subordinate to such Government, or employed in such department or office, as the case may be, it shall be lawful for such Government, or any such head officer as aforesaid, to

Government or head of department may prosecute police &c. officer on suspicion of corruption &c.

prosecute such officer on the part of Government in a Criminal Court, or to nominate some person to conduct such prosecution; and it shall also be lawful for such Government, or head officer as aforesaid, in their or his discretion, to undertake on the part of Government the prosecution in a Criminal Court of any such charge as aforesaid which may be brought by an aggrieved private party against any such ministerial or police officer, and such prosecution as aforesaid shall not be barred, or affected by reason of the party prosecuted having ceased to be in the service of Government at the time at which the charge may be brought against him.

Prosecution not to be barred by leaving employ of Government.

II. Provided always that no Collector, Magistrate, nor head of an office in the Salt, Abkarree, or Customs Department under the grade of Commissioner, shall commence or undertake a prosecution under this Act, until he shall have obtained the permission of the Court, Board, or officer to whom he is immediately subordinate, to institute the same.

Collector &c. not to prosecute without sanction of Board &c.

III. No Collector, Magistrate, Judge, or other officer, who may prosecute any officer under this Act, or cause such prosecution to be instituted, or who may conduct any preliminary investigation into the conduct of such officer connected with such prosecution, nor any of his deputies, assistants, or subordinate officers, shall act as judge in any such prosecution.

Person prosecuting not to act as judge.

IV. Nothing herein contained shall be construed so as to repeal or otherwise affect Regulations IX. 1822 and VII. 1828, of the Madras Code, and Act XXXVI. 1837, and the said Regulations and Acts shall remain in full force with respect to the malversations and offences in the Revenue Department to which they are applicable.

Certain Regulations &c. not to be affected by this Act.

ACT No. XXXIII. OF 1852. (a)

Passed on the 27th of August 1852.

An Act to facilitate the enforcement of judgments in places beyond the jurisdiction of the Courts pronouncing the same.

I. Every party, who shall have obtained a judgment in any Court of Her Majesty, or of the East India Company, in any part of the territories under the Government of the East India Company, or in any Court established by the authority of the Governor General of India in

Judgments to be enforced beyond jurisdiction of Court granting them.

(a) This Act is explained and amended by Act XXXIV of 1855.

Council in the territory of any foreign Prince or State, and who shall be unable to enforce or obtain satisfaction of the same by execution within the jurisdiction of such Court, may enforce or obtain execution of the same in any part of the said territories under the Government of the East India Company in manner following:

Court to grant, if no objection, copy of judgment &c.

II. The party may apply to the Court which shall have pronounced such judgment, for a copy thereof, and also for a certificate that satisfaction of such judgment has not been obtained by execution within the jurisdiction of the said Court, also for a copy of any order for execution of such judgment that may have been passed, and, if necessary, for a translation of the said judgment and order for execution into the English language. The Court, unless there be any sufficient reason to the contrary, shall cause such copy and certificate, and translation if necessary, to be furnished, and the same shall be signed by the judge, or one of the judges of the Court, and sealed with the seal of the Court.

Nature and name of Court of original jurisdiction to appear.

III. If such Court shall be the principal civil Court of original jurisdiction in the district, the judge shall describe himself accordingly in the certificate, and shall also name the Court and the district.

Judgment of inferior Court to be authenticated by principal Civil Court.

IV. If the Court shall not be the principal civil Court of original jurisdiction in the district, the copy of the judgment and of the order for execution, if any, the certificate of the judge, and the translation, if any, shall, without delay, be transmitted to the principal civil court of original jurisdiction in the district, and the judge, or one of the judges of such court, shall issue a certificate under his hand and the seal of the court, verifying the signature of the judge of the court in which the judgment shall have been given to the documents above-mentioned; and in such certificate the judge signing the same shall describe himself as the judge, or one of the judges, of the principal civil court of the district, and shall also name the court and the district.

Documents to be transmitted to Court of district where to be executed, and filed there.

V. All copies, translations, and certificates, which may be furnished by, or transmitted to the principal civil Court of original jurisdiction in the district in which such judgment shall have been given, shall be transmitted by such Court without delay to the principal civil Court of original jurisdiction in the district

in which the party may wish to have the judgment enforced or executed, and if such last-mentioned Court be the Supreme Court of Judicature of either of the Presidencies, to the Prothonotary of the Court; and such Court shall cause the said documents to be filed therein, without any proof of the judgment or order for execution, or of the copies thereof, or of the translations, if any, or of the seal or jurisdiction of any Court, or of the signature of any judge, unless the Court to which such documents shall be transmitted, shall, under any peculiar circumstances, to be specified in an order, require the same.

To have same effect as judgment of such Court.

VI. The copy of any judgment, or of any order for execution, when filed in the Court to which it shall be transmitted for the purpose of being executed or enforced as aforesaid, shall for such purpose have the same effect as a judgment or order for execution made by such Court, and may be enforced or executed by such Court, or any Court subordinate thereto, to which it may intrust the enforcement or execution thereof.

And to be enforced according to usual practice.

VII. When application shall be made to any of the said Courts to enforce, or execute the judgment of any other Court as aforesaid, the Court to which the application shall be made, or referred, shall proceed to enforce, or execute the same, according to its own rules and mode of procedure in like cases; and the last-mentioned Court shall take cognizance of, and punish, all wrongful acts or irregularities done or committed in enforcing and executing such judgment; and all persons disobeying or obstructing the enforcement or execution of any such judgment, shall be punishable by such last-mentioned Court, in the same manner as if the said judgment had been pronounced by such Court.

Provisions of this Act to extend to Decrees of Military Courts of Requests.

VIII. The decrees, of which execution is to be general, of any Military Courts of Requests holden within the said territories under the Government of the East India Company, or mentioned in Section XVII. Act No. XI. 1841, may be enforced in the manner provided by this Act. No such decree, however, shall be enforced under this Act against the person of the debtor, if a soldier. In the case of a decree of a Military Court of Requests the copy, decree, and certificate, and translation, if any, shall be signed by the officer commanding the station or cantonment, who shall describe himself accordingly; and no proof of the decree, or of the signature or appointment of such officer, or of the jurisdiction of the court, shall be necessary, unless the court to which the

How to be authenticated &c.

same may be presented shall think fit, under any peculiar circumstances, to be specified in an order, to require the same.

Petition for execution when to be written on plain paper.

IX. A petition for execution under this Act of any judgment of a moonsiff's Court, or of any decree of a Military Court of Requests, may be written on plain paper.

Appeal against execution.

X. An appeal shall lie from any order for the enforcement or execution of a judgment under this Act, in the same manner, and subject to the same rules and regulations, as if the judgment had been originally given by the Court making such order.

Interpretation of words.

XI. In this Act the word "judgment" means a judgment in a civil suit or proceeding, and includes any final decree or order in a civil suit or proceeding. The word "party" shall include any person who would be entitled to maintain a suit upon the judgment. The masculine gender shall include the feminine, and the singular number shall include the plural.

ACT No. I. OF 1853.

Passed on the 4th of February 1853.

An Act for providing in the Presidencies of Fort St. George and Bombay for the punishment of Males of tender age for Petty Thefts.

Preamble.

Whereas it is expedient, until adequate improvements in Prison Discipline can be effected at the Presidencies of Fort St. George and Bombay, to substitute corporal punishment for imprisonment, in case of offences committed by males of tender age, who should be punished rather in the way of school discipline than of ordinary criminal justice, It is enacted as follows:

Corporal punishment with ratan may be inflicted on males of tender age for theft.

I. Every Magistrate, Joint Magistrate or First Assistant Magistrate in either of the Presidencies of Fort St. George or Bombay; and every Deputy or Assistant Magistrate in either of the said Presidencies, to whom the Governor in Council of the Presidency in which he is may grant authority, such Deputy or Assistant Magistrate shall, on conviction of theft of property not exceeding in value rupees fifty, if the person convicted be a male, and shall appear to him, by inspection or other evidence, to be of such tender years as to require punishment ra-

ther in the way of school discipline than of ordinary criminal justice, sentence such person to corporal punishment with a light ratan, not exceeding ten stripes, to be inflicted on the bare palm of the hand, or through a light garment on the back.

No other punishment shall be superadded.

II. In cases of sentences to corporal punishment as aforesaid, no other punishment shall be superadded, and the punishment shall be inflicted on all occasions in the presence of the officer who awards it.

ACT No. II. OF 1853.

Passed on the 4th of February 1853.

An Act to remove doubts as to the liability of all subjects of Her Majesty to the same jurisdictions as Natives in respect of public and Police duties and public charges incident to the holders of land or their local Agents or Managers.

Preamble.

Whereas by virtue of Act No. IV. 1837, it is lawful for any subject of Her Majesty to acquire and hold in perpetuity, or for any term of years, property in land, or in any emoluments issuing out of land, in any part of the Territories under the Government of the East India Company; and whereas doubts have arisen whether all subjects of Her Majesty acquiring or holding property in land, or in any emolument issuing out of land, or acting as local Agents or Managers of such property, are subject to the same jurisdictions as Natives for enforcing the discharge of public and Police duties incident to the holding of such property, or for the enforcement of public charges and assessments upon or in respect thereof; and whereas it is just and reasonable that all persons who may think fit to hold such property, or to be the local Agents or Managers thereof, should be liable to the public burthens and duties incident thereto, and in case of neglect or refusal to discharge the same, should be subject to the same jurisdictions as Natives; It is therefore declared and enacted as follows:

No one by reason of place of birth &c. is exempt from public charge or assessment or from public duty:

I. No person whatever, being the owner, holder, or farmer of any property in land, or in any emoluments issuing out of land, in any part of the said Territories, whether in perpetuity or for a term, or being a local Agent or Manager of any such property, is by reason of his place of birth, or by reason of his descent, exempt from any public charge or assessment, or from any duty connected with the Police, or with the Salt or Opium revenue, or from any

duty whatsoever of a public nature, to which he would otherwise be subject, as the owner or holder of such property, or as a local Agent or Manager thereof.

And for non-payment of charge &c. is liable to same law and jurisdiction as a Native of the place.

II. For the non-payment of any such public charge or assessment, or for the breach of any such duty as aforesaid, or for any neglect or misconduct in the discharge thereof, every person, whatever may have been his place of birth, or his descent, shall be subject to the same laws, regulations, and procedure, and to the same jurisdictions as if he were a Native of the said Territories.

ACT No. IV. OF 1853.

Passed on the 11th of March 1853.

An Act for the abolition of the Government monopoly of Tobacco in the Provinces of Coimbatore, Malabar and Canara.

Regulations respecting Tobacco monopoly rescinded.

Whereas it has been deemed expedient, that the monopoly of Tobacco in the Provinces of Coimbatore, Malabar and Canara, shall be abolished, Regulations VII. and VIII. of 1811, and such parts of Regulation V. of 1831 of the Madras Code, as relate to the said monopoly, are hereby rescinded.

ACT No. VII. OF 1853.

Passed on the 15th of April 1853.

An Act to extend the jurisdiction of Magistrates, under the 53rd George 3rd, Cap. 155, Sec. 105, in cases of assaults, forcible entries, and other injuries accompanied with force, not being felonies.

Preamble.

Whereas, by an Act passed in the 53rd year of the reign of King George the 3rd, it was enacted amongst other things that it should be lawful for any Native of India resident in the East Indies or parts therein mentioned, and out of the Towns of Calcutta, Madras and Bombay, in case of any assault, forcible entry, or other injury accompanied with force, not being felony, alleged to have been done against his person or property by a British subject, to complain of such assault, forcible entry, or other injury accompanied with force, not being felony, to the Magistrate of the Zillah, or district where the alleged offender should be resident, or in which such offence should have been committed, and that such Magistrate should have the power and authority therein mentioned: and whereas Natives of India, resident in the East Indies, upon complaints preferred

by them under the aforesaid provisions of the said Act, may be prevented from obtaining redress under the same, by reason of their inability to prove the place of their birth: and whereas it is expedient to extend the aforesaid provisions of the said Act as amended by Act IV. 1843, to cases of assaults, forcible entries, and other injuries accompanied with force, not being felonies, committed in any part of the territories under the Government of the East India Company, not being within the said Towns of Calcutta or Madras, or the Islands of Bombay and Colaba, or the settlement of Prince of Wales' Island, Singapore and Malacca, against the person or property of any person whatever, whether a Native of India or not: It is enacted as follows:

Act 53 George 3rd and Act IV 1843 partially extended to assaults &c., not being felonies, committed by British subjects &c, beyond Presidency towns.

I. The provisions of the said Act of the 53rd George 3rd and of Act IV. 1843, so far as the said provisions extended to cases of assault, forcible entries, or other injuries accompanied with force, not being felonies, against the person or property of any Native of India, are hereby extended to the case of any assault, forcible entry, or other injury accompanied with force, not being felony, which may at any time hereafter be committed in any part of the territories under the Government of the East India Company, not being within the said towns of Calcutta or Madras, the said Islands of Bombay and Colaba, or the said settlement of Prince of Wales' Island, Singapore and Malacca, by any British subject or other person, against the person or property of any person whatever.

Joint Magistrate &c., to have jurisdiction over such cases.

II. The powers in such cases given to the Magistrate of the zillah or district, may be lawfully exercised by any Joint Magistrate or other person lawfully exercising the powers of a Magistrate, in the case of any such offence as aforesaid, which may hereafter be committed within the district over which his authority extends.

ACT No. XIV. OF 1853.

Passed on the 21st of October 1853.

An Act for regulating the collection and distribution of the Effects of Officers, Seamen and others dying in the Marine Service of the East India Company called the Indian Navy.

Preamble.

Whereas it has been deemed expedient, in pursuance of the Provisions of an Act passed in a Session of Parliament holden in the 3rd and 4th years of the reign of

Her Majesty Queen Victoria, to provide for the due collection, conversion into money, application, remittance and distribution of the effects of Officers, Engineers, Soldiers, Marines, Seamen and all others belonging to the Marine Establishment of the East India Company called the Indian Navy, who shall die in the Service of the said Company out of the United Kingdom, and for the discharge of their marine debts, It is enacted as follows.

Deceased Commissioned Officer's effects to be secured, inventory made and transmitted to Government with account of debts and credits, surplus being paid to legal representative.

I. When any Commissioned Officer belonging to the Indian Navy shall die in the Service of the East India Company out of the United Kingdom, whether his death shall take place on board Ship or on shore, the first Lieutenant of the Ship or Vessel to which such Officer belonged at the time of his death, or the Officer of such Ship or Vessel next in rank to the Commander thereof, or the Commander himself if there is no other Commissioned Officer on board, or any Officer he may appoint, shall immediately secure all the effects and equipage of the deceased on board the said Ship or Vessel, or on shore in quarters, and any other effects of the deceased within the territorial possessions of the East India Company which the Commander of such Ship or Vessel shall direct or authorize to be collected or secured, and shall with all convenient speed, and not later than one month after the death of the Officer, with the assistance of two other Officers not under the rank of Purser or of Clerk in charge, such Clerk having served not less than two years at sea, to be appointed by the Commanding Officer of the said Ship or Vessel, make an inventory thereof, and transmit that inventory together with an account of the debts and credits to the Office of the Secretary to the Government of the Presidency of Bombay in the Marine Department, to the end that after payment of such Officer's marine or ship debts and the expenses of his interment where any shall have been incurred, the overplus, if any, shall be paid over by the said Secretary to the legal representatives of the Officer so deceased, as hereinafter mentioned.

The same to be done in respect to non-commissioned officers, &c.

II. When any Non-commissioned Officer, Seaman or other person belonging to, or serving in, the Indian Navy shall die out of the United Kingdom in the service of the East India Company, whether his death shall take place on board Ship or on shore, the First Lieutenant of the Ship or Vessel to which such Non-commissioned Officer, Seaman or other person belonged at the time of his death, or the Officer of such Ship or Vessel next in rank to the Commander thereof, or the Com-

mander himself if there be no other Commissioned Officer on board, or any Officer he may appoint, shall immediately secure all the effects and equipage of the deceased on board the said Ship or Vessel, or on shore in quarters, and any other effects of the deceased within the territorial possessions of the East India Company which the Commander of the Ship or Vessel shall direct or authorize to be collected or secured, and shall with all convenient speed, not later than one month after the death, in the presence of two other Officers of the rank in the preceding section mentioned, to be appointed by the Commander of the said Ship or Vessel, take an inventory thereof and of his credits, and shall take care that the same be applied in the first instance to the liquidation of his marine or ship debts, the remainder if any to be paid over to the Secretary to the Government of Bombay in the Marine Department, in order that the same may be paid to the legal representatives of the deceased.

The above prescribed course to be pursued both by the officers of the ship to which deceased was temporarily attached as well as his own.

III. When any such Commissioned or Non-commissioned Officer or Seaman, or other person shall at the time of his death as aforesaid have been detached temporarily from his own Ship, and shall be serving with another Ship at a distance from his own, the Officers of the Ship in which the deceased was serving, as well as the Officers of the Ship to which the deceased belonged at the time of his death, shall act in manner above directed, in Sections I. and II. of this Act.

When Commander-in-Chief may appoint committee for above purpose.

IV. If any Commissioned Officer, or Non-commissioned Officer, Seaman, or other person belonging to, or serving in, the Indian Navy, shall die within the Presidency of Bombay, away from the Ship or Vessel to which he belongs, except when temporarily serving with another Ship, the Commander-in-Chief of the Indian Navy shall in such case appoint a Committee consisting of such three Officers as he may direct, to secure the effects of the deceased, or such of them as he may direct, and to apply the same and act in regard thereto as in the first and second sections of this Act mentioned.

Officers appointed, to discharge duties faithfully &c.

V. The said First Lieutenant and other Officers to be selected and appointed for the purposes aforesaid, are hereby required to take upon them the said duties, and faithfully discharge the same, and in all respects to conform to the provisions and regulations hereinafter particularly specified.

Effects &c., of deserters how to be disposed of.

VI. The effects and credits, within the territories under the Government of the East India Company, of Deserters from the Indian Navy, shall be collected and applied in like manner in payment of their marine or ship debts, and the remainder if any, shall be brought to the credit of the said Company.

Officers appointed may recover debts &c.

VII. It shall be lawful for the Officers, or other persons so authorized as aforesaid to secure and collect the effects or any part of the effects of any such deceased Officer, Seaman or other person so dying as aforesaid, to ask, demand and receive any such effects to which his authority shall extend, and to commence, prosecute and carry on any actions or suits for the recovery thereof, and to sell and dispose of, or otherwise deal with the same, without taking out any letters of administration, either with any will annexed or otherwise, in every respect as if such Officers or persons employed or authorized as aforesaid had been appointed executors, and had proved the will or had taken out administration of such effects; and no Administrator General, Registrar of any Court in the East Indies, or any person acting under the appointment or authority of such Court *ad colligenda* or otherwise, shall in any manner interpose in relation to any such effects unless required or authorized so to do by any such Officer or person so authorized as aforesaid.

Administrator General not to interfere unless authorized.

What shall be deemed ship debts; and how to be paid.

VIII. All sums of money due by deceased Officers, Engineers, Marines, Seamen, and other persons belonging to or serving in the Indian Navy, to the Indian Navy Fund, or in respect of mess-bills unadjusted since the last regular issue of pay-bills, or in respect of Military or Marine clothing appointments, or of equipments or other articles supplied from the Ship's stores, or of servants' wages due, or of any Ship expenses during the current month, or of any sanatarium or hospital charges, or of any mess or marine or ship accounts, and all sums of money due to any agent or Paymaster or Purser, or any other Officer upon any such account, or on account of any advance made for any such purpose, and also any charges or expenses attending or relating to the illness or funeral of any such Officer, Seaman or other person, shall be deemed and taken to be marine or ship debts, and shall be paid out of any arrears of pay or allowances, or out of any prize or bounty money, or the equipage, goods, chattels and effects of any Officer, Seaman or other person dying out of the United Kingdom while in the Service of

the said Company, in preference to any other debts, claims or demands whatsoever upon the estate and effects of such Officer, Seaman or other person, and if any doubt shall arise as to whether any claim or demand made in relation to any Officer, Seamen or other person is a marine or ship debt or not, or whether such charges or expenses attending or relating to the illness or funeral of such Officer, Seaman or other person are proper to be allowed, or whether any such marine or ship debts remain due, such question shall be decided and concluded by any order or certificate to be made by the Secretary to the Government, and all such payments shall be good and valid in law; and every person who shall make any such payment out of any such arrears of pay, effects, or proceeds as aforesaid under the provisions of this Act, or in pursuance of any such order or certificate of such Marine Secretary, or into whose hands any such money shall come, shall be and is hereby indemnified for and in respect of such payments, and all other acts, matters and things done in pursuance of the provisions of this Act, or of the order or certificate of the said Secretary in relation to the distribution of such assets, anything in any Act or Acts or law or laws to the contrary notwithstanding.

How doubts are to be settled.

Party administering indemnified.

IX. All such marine or ship debts shall and may be paid without probate of any will or any letters of administration, and the surplus only of such arrears of pay or allowances, prize or bounty money, equipage, goods and chattels, or the proceeds thereof, shall be deemed the personal Estate of the deceased for the payment of duty in respect of any probate or of any letters of administration or for the purpose of distribution as personal estate, and it shall be lawful for the said Secretary to order and direct the payment or distribution of any such surplus, in any case in which the same shall not exceed Five hundred Company's Rupees, without any probate or letters of administration, or payment of any duty of stamps or upon legacies or otherwise, and it shall also be lawful for any Paymaster or other person to issue any sum not exceeding the value of Five hundred Company's Rupees which may be due to any such deceased Officer, Seaman, or other person unto the widow or relative of any such Officer, Seaman or other person, or unto the representative or representatives of any such widow or relative in India in like manner, without any probate or letters of administration or payment of any duty of stamps, or upon legacies or otherwise, the same to be paid to the person who shall be notified by the said Secretary as aforesaid as being entitled thereto, and

Surplus how to be disposed of; stamp duty &c. exempted in certain cases.

all such payments respectively shall be as valid and effectual to all intents and purposes, as if the same had been made by or to any executor or administrator or under the authority of any probate or letters of administration, anything in any Act or Acts or law or laws to the contrary notwithstanding.

Surplus &c. may be remitted to any part of India for payment to persons entitled thereto.

X. Any such effects, or the proceeds or surplus of such effects, of any Officer, Seaman or other person so dying, when remitted to any person under any order of the Secretary to the Government of Bombay, or to such Secretary, shall not by reason of coming to the hands of such person or Secretary be taken to be assets or effects in the place to which such proceeds or surplus may be remitted, so as to render it necessary that administration should be taken out in respect thereof, and it shall be lawful for the Secretary to the Government of Bombay to order that such effects or the proceeds or surplus of any such effects shall be remitted to any other place in India where the same can more conveniently be paid over to the person or persons entitled thereto, and the obedience to the orders of such Secretary in respect to the payment and disposal of any such effects, proceeds or surplus of such effects, shall be a discharge from all actions, suits and demands in respect thereof, to any person to whose hands any such effects, proceeds or surplus shall have come, and which shall have been paid and disposed of under the order of such Secretary.

Effects &c. to be transmitted to Secretary, who shall cause payment to be made in India, or to Court of Directors for disposal.

XI. The effects or the proceeds or surplus of effects of any such Officer, Seaman or other person dying as aforesaid, which shall remain after satisfying such marine or ship debts as aforesaid, shall with all convenient speed be transmitted to such Secretary as aforesaid, by the Officer or person employed or required to take care of, collect and receive the same, and such Secretary shall cause the same or the surplus thereof remaining after satisfying such debts, and after and subject to such payment and application as is hereinbefore authorized to be paid to the executor or legal representative (if in India) of such Officer, Seaman or other person, or if such executor or legal representative shall not be in India, or shall not within twelve months from the death of such Officer, Seaman, or other person claim such surplus, then and in that case such Secretary shall remit the said surplus to the Court of Directors of the East India Company in London, to be by them paid to the executor or legal representative of such Officer, Seaman or other person so deceased, and such remittance at the end of twelve months as aforesaid shall be a discharge to such

Secretary from all actions, suits and demands in respect of such surplus, provided always that the Registrars of Her Majesty's several Supreme Courts in India shall not, nor shall the Administrator General of either of the said Presidencies, be required or entitled to take out letters of administration with the will annexed, or otherwise in respect of such surplus.

Act to apply to Europeans only.

XII. The provisions of this Act are intended to apply and shall apply only to European Officers and Seamen, and to other persons being Europeans belonging to the Indian Navy, who may die as aforesaid.

Rules hitherto in force to be void, but past acts done under them to be valid.

XIII. And whereas the Governor in Council of Bombay made certain Rules, bearing date 27th July 1844, to be observed on the decease of European Officers and European Seamen belonging to the Indian Naval Service, purporting to be Rules made in pursuance of the provisions of the said Act of the 3rd and 4th Victoria and the Articles of War thereto annexed, and which Rules have been acted upon, It is hereby enacted that the said Rules shall no longer be acted upon, but that all acts heretofore done within any part of the territories under the Government of the East India Company, which were authorized by the said Rules, shall be deemed to be valid, and that no act thereby authorized to be done shall be questioned in any Court of Justice in any part of the territories under the Government of the East India Company.

ACT No. XVI. OF 1853.

Passed on the 18th of November 1853.

An Act for amending the Law of Special Appeals.

Act III. 1843, partially repealed

I. Act No. III. of 1843, is hereby repealed, except as to cases in which a petition for appeal shall have been presented, before this Act shall come into operation.

Petition presented, but not disposed of, to come within this Act.

II. If any application for a special appeal shall have been presented, and no order shall have been passed thereon before this Act shall come into operation, such application shall be heard and determined in the same manner as an appeal presented under this Act; and all the provisions of this Act shall extend to such application and to the hearing there-

of, and to all subsequent proceedings thereon; and also to the hearing and determination of the appeal, if the same shall be admitted.

How appeals admitted are to be determined.

III. If any such application shall have been presented, and the appeal admitted before this Act shall come into operation, the appeal shall be heard and determined, in the same manner as if this Act had not been passed except that the Sudder Courts shall determine the appeal without reference to the points certified, and may call for or refer to any part of the proceedings which may be necessary and that the provisions of section X. of this Act shall extend to such appeals.

Grounds on which appeal shall lie, viz:—

IV. A special appeal shall lie to the Sudder Courts in the several Presidencies of Fort William in Bengal, Fort St. George and Bombay, from any decision passed on regular appeal in any of the Civil Courts subordinate to the said Sudder Courts respectively, on any of the following grounds namely:

Failure to decide material points, or according to law.

1st. On the ground that the decision hath failed to determine all material points in difference in the cause, or hath determined the same or any of them contrary to law or usage having the force of law.

Misconstruction of a document.

2nd. On the ground of a misconstruction of any document.

Ambiguity.

3rd. On the ground of any ambiguity in the decision affecting the merits.

Substantial error in procedure &c., if apparent on the record: but not on matter of fact.

4th. On the ground of any substantial error or defect in procedure, or in the investigation of the case, provided such error or defect be apparent on the record, and shall have produced, or be likely to have produced, any error or defect in the decision of the case upon the merits. Provided always that no such special appeal shall lie, nor shall any such decision be reversed, altered, or remanded, by any of the said Sudder Courts, upon the ground that the decision of any question of fact is contrary to or not warranted by the evidence duly taken in the cause, or any probability deduced from the record.

Petition to be presented to Sudder Court &c., within three months.

V. *Clause* 1.—A petition of special appeal may be presented in the Sudder Court or it may be presented in the Court in which the decision objected to was passed for transmission to the Sudder Court. In either case the petition must be presented within three months from the date of the decision appealed against, unless the petitioner

can show just and reasonable cause to the satisfaction of the Sudder Court for not having presented it within such limited period.

What documents shall accompany Petition.

Clause 2.—Every such petition of special appeal shall be accompanied by authenticated copies of the decree objected to, and of the decree of the Court of original jurisdiction. If the appeal be presented in the Court in which the decree objected to was passed such last mentioned Court shall forthwith forward the same to the Sudder Court with an endorsement thereon of the date on which it was presented, together with the copies of the decrees of the lower Courts by which it was accompanied.

Extension of time for appealing may be applied for.

Clause 3.—An application for an extension of the time for presenting a petition of special appeal may be made directly to the Sudder Court or through the intervention of the lower Court at the option of the applicant.

What petition shall contain.

VI. Every petition for a special appeal shall set forth concisely and under distinct heads the grounds of objection to the decision appealed, without any argument or narrative, and such grounds shall be numbered consecutively.

Lists of petitions to be prepared weekly; what to contain, and where to be published.

VII. *Clause* 1.—The Sudder Courts shall cause lists of the petitions, which shall be presented for the admission of special appeals to be prepared weekly, and to be affixed in the Court houses of the said Sudder Courts respectively. The said lists shall set forth the dates on which such petitions are likely to be brought on for hearing, and the said Sudder Courts shall cause extracts from the said lists to be transmitted to the Courts in which the decisions on regular appeal were passed; such extracts shall be affixed in some conspicuous place in the last mentioned Courts, and extracts therefrom shall be transmitted by such Courts to the Courts in which the original suits were instituted, and such last mentioned extracts shall be affixed in some conspicuous place in the said last mentioned Courts. The time to be affixed by the Sudder Court for the hearing of any petition shall not be less than six weeks from the date of despatch of the extracts referring to the same from the Sudder Court. The date of the despatch of each extract shall be notified thereon.

Respondent may petition by way of cross appeal.

Clause 2.—At any time within the period of one month from the date of the despatch of the extract referring to the appeal or within such further time as the Sudder Court shall, for just and reasonable cause, allow for that purpose,

the respondent may present a separate petition of special appeal in the Sudder Court upon any of the grounds upon which a special appeal will lie against any part of the decision of the lower Court not involved in the appeal of the opposite party, provided the respondent shall not previously have presented a special appeal in the cause. Such petition however shall not be inserted in any list to be prepared in pursuance of Clause 1, Sec. VII. of this Act.

Petitions and appeals when to be heard.

Clause 3.—If the petition of appeal or the appeal of either party be dismissed, withdrawn or rejected, the application for appeal or the appeal, as the case may be, of the other party, shall be heard alone according to the provisions of this Act: otherwise, all applications for special appeal and all admitted special appeals relating to the same decision, shall respectively be heard together unless the Sudder Court shall otherwise order in any case.

One or more Judges may hear petitions, order amendments &c.

VIII. *Clause* 1.—It shall be lawful for one or more of the Judges of the said Sudder Courts, respectively, to hear applications for special appeals, duly presented as aforesaid, in the presence of the appellant, or his pleader and also of the respondent or his pleader or such of them as shall attend, and it shall be competent for such Judge or Judges to call for and peruse any document forming a part of the record of the cause; or to order the amendment of the petition of special appeal forthwith, or within such time as he or they may order, not exceeding one month from the date of such order; or to make an order of reference to the Court which pronounced the decree appealed from for further information or explanation; or to pass an order for admitting the appeal for hearing or for rejecting the same; or, if it shall appear that the facts have not been sufficiently recorded, or that the case is otherwise so insufficient that the Sudder Court, could not, if the appeal were admitted, pass a final decree thereon, but for no other cause, to issue an injunction, setting forth the errors, irregularities, or other defects in the decision appealed against, and remanding the same to the Court by which the same shall have been passed, in order that such decision may be reviewed by the last mentioned Court, and that such order or decree may be passed thereon as shall be conformable to law. Provided always that no such remand shall be ordered as aforesaid, except upon grounds whereon a special appeal will lie under this Act. If any such application shall be heard by only two Judges, and they differ in opinion as to admitting the appeal for hearing, it shall be admitted.

Appeal to be admitted when two Judges disagree as to admission.

What order admitting appeal shall specify.

Clause 2.—An order for admitting a special appeal for hearing shall specify, for the information of the Court, the grounds, upon which it was admitted. But neither the Court nor the parties shall be confined to those grounds upon the hearing.

Appeal to be put on file when admitted.

Clause 3.—If an order be passed for admitting the special appeal for hearing the case shall be brought on to the file of the Court to be heard and determined in due course.

Order for rejection of petitions passed by one Judge not final. but by a second it is

Clause 4.—If an order for rejecting a special appeal or for remanding a case be made by one Judge only, such order shall not be final, but it shall be laid before another Judge of the same Court who shall hear the application for the appeal in the presence of the appellant or his pleader and also of the respondent or his pleader or such of them as shall attend. If the second Judge be of opinion that the appeal ought to be rejected or the case remanded he shall pass a final order to that effect; if he be of opinion that the appeal ought to be admitted he shall pass an order for admitting the same and the appeal shall thereupon be admitted, heard and determined in due course, in the same manner as if it had been admitted in the first instance.

Respondent to have notice when final order is to be made.

Clause 5.—A final order for remanding a case shall not be made without notice to the respondent to enable him to appear and be heard.

Grounds for granting special appeal may be certified and appeal heard without reference to order on list.

Clause 6.—Any Judge by whom an order for admitting a special appeal shall be made may certify that in his judgment the decision of the lower Court is manifestly erroneous upon any of the grounds upon which a special appeal will lie, and thereupon the appeal may be set down for hearing in a list to be called the list of certified special appeals. All cases entered in such list may be called up in due course for hearing and decision according to the provisions of this Act without regard to the general list of special appeals pending in the Sudder Court.

Appeals may be heard at once if requisite number of Judges be present.

Clause 7.—If an application for a special appeal be heard by a number of Judges sufficient according to the provisions of this Act to hear and determine the appeal and it shall appear that the decision is manifestly erroneous, or that the case ought to be remanded,

the appeal may be heard and determined forthwith, if the respondent or respondents be present or represented by a pleader or pleaders, otherwise the Court may order the case to be entered in the list of certified appeals, and the same shall be entered accordingly.

Order for rejecting appeal to state grounds. it may be reviewed.

IX. *Clause* 1.—Every order for rejecting a special appeal shall state the reason for disallowing each of the grounds set forth in the petition, and every such order of rejection may be once reviewed by the Judge or Judges by whom the same was passed or by any Judge or Judges sitting for or instead of him or them, if they or he shall think fit to review the same. Provided that no such review shall be allowed unless application for the same be made within three months from the date of such order.

If order be rescinded, or Judges divided in opinion, appeal to be admitted.

Clause 2.—If any such order be rescinded or if the Judges who shall review the same shall be equally divided in opinion the appeal shall be admitted and the case brought on to the file of the Court and heard and determined in due course.

Petition for review to be written on stamped paper.

Clause 3.—A petition for the review of such order shall be written on paper stamped with a Government stamp of the value of two Rupees a sheet.

Appeal to be heard by three Judges.

X. *Clause* 1.—When any special appeal shall be admitted, the same shall be heard and determined by three or more of the Judges of the Sudder Court, and such hearing and determination shall be upon all the grounds whereon a special appeal will lie under this Act.

Grounds of appeal may be amended &c.

Clause 2.—The Sudder Court may at any time before or at the time of the hearing of any special appeal or any application for a special appeal allow either party to amend the grounds of objection set forth in his petition, or to add further grounds of objection thereto; or to urge and be heard by himself or his pleader in support of any objection not included in his petition, upon such terms and conditions as to postponement of the hearing, and as to the payment of costs or otherwise as the Court shall think just, to prevent the opposite party or his pleader from being taken by surprise or otherwise. Without such leave of the Court, neither party shall be allowed to urge or be heard in support of any objection not set forth in his petition. But upon hearing the application or determining the appeal the Sudder Court shall not be confined to the grounds of objection set forth in the Petition.

Existing Laws not inconsistent with this Act to continue.

XI. The existing Laws and Regulations of the Presidencies of Bengal, Madras and Bombay, relating to special appeals shall continue in force, in the said Presidencies respectively, so far as they are not inconsistent with, or repealed by, this Act.

ACT No. XVIII OF 1853.

Passed on the 2nd of November 1853.

An Act for Regulating the Sale of Spirituous Liquors, &c. in Cantonments.

Whereas it is expedient to regulate the sale of spirituous liquors, wine and intoxicating drugs within Military Cantonments, It is enacted as follows :

How persons not amenable to Military Law selling &c. spirituous liquors to European soldiers, without licence are to be punished.

I. If within any Military Cantonment or within any limits around the same to which the Provisions of this Act shall be extended by an order of Government to be publicly notified any person not amenable to Articles of War or any Sutler or Camp follower shall knowingly barter, sell, or supply, or offer, or attempt to barter, sell, or supply, any spirituous liquor, wine or intoxicating drug, to, or for the use of any European Soldier, or to, or for the use of any European or Eurasian being a Camp follower or a Soldier's wife without a written license from the Officer Commanding at the Station, or from some person having sufficient authority from the Commanding Officer to grant such license, the person so bartering, selling, or supplying or offering or attempting to barter, sell, or supply such spirituous liquor, wine, or intoxicating drug as aforesaid, shall be liable, on conviction before a Magistrate, to a fine not exceeding Fifty Rupees, or, in the discretion of the Magistrate, to imprisonment, with or without hard labour, for any period not exceeding one calendar month.

Punishment for a similar subsequent offence.

II. If any person convicted of an offence under Section I. of this Act, shall be convicted under that Section of an offence subsequently committed, he shall be liable, to a fine not exceeding One Hundred Rupees, or to imprisonment, with or without hard labour, for any period not exceeding three calendar months ; and in such case any spirituous liquor, wine, or intoxicating drug, within such Cantonment, or limits, which at the time of the commission of such subsequent offence shall belong to, or be in the possession of such person, shall, without fur-

ther proof, be deemed to be in the possession of such person for the purpose of being supplied to European Soldiers contrary to the provisions of this Act, and shall be liable to be seized and confiscated.

How camp followers &c having in possession &c. more than one seer of liquor without permit are to be punished.

III. If any Camp follower or Military pensioner or the wife or widow of any Soldier, Camp follower or Military pensioner shall within such Cantonment or limits remove, convey, or have in his or her possession any quantity of spirituous liquor, or wine exceeding one seer or quart, without a permit, to be signed by the Officer in Command, or such other Officer as may be appointed by him to grant permits under this Act; every such person shall be liable upon conviction to a fine not exceeding Fifty Rupees, and for any subsequent offence to a fine not exceeding one Hundred Rupees, or to imprisonment, with or without hard labour, for any term not exceeding three calendar months.

Above section not to apply to liquor belonging to commissioned officer.

IV. Section III. of this Act shall not apply to any liquor brought into a Cantonment for the private use of any Commissioned Officer.

Police officer may arrest offender &c., without warrant and take him before a magistrate.

V. If any person, subject to the provisions of this Act, shall be found committing any offence contrary thereto, any Police Officer, authorized under this Act, may immediately, without warrant, arrest such person, and also seize any spirituous liquor, wine or intoxicating drug, together with any vessel containing the same, and anything used for the purpose of removing, conveying, or concealing the same, which may be found in his possession, and shall thereupon, without delay, take such person, together with the things so seized, before a Magistrate or other officer having jurisdiction to punish the offender.

Fine for resistance and for neglect of police officer to take offender to magistrate &c.

VI. Any person, who shall obstruct any Police Officer in making any arrest, or seizure, under this Act, and any Police Officer, who shall not, without unreasonable delay, take the person, or thing so arrested, or seized, before a Magistrate, or other Officer having jurisdiction to punish the offence, shall be liable, on conviction before a Magistrate, to a fine, not exceeding One Hundred Rupees.

Fine for improper arrest or seizure · damages to party aggrieved

VII. Any Police Officer, who, under color of this Act, shall, without probable cause, make any arrest, or seizure, without a warrant, shall, on conviction before a Magistrate, be liable, to a fine not exceeding One Hundred Rupees, which fine or any part of it may be ordered by the Magistrate to be paid to the person aggrieved.

Officer acting under this Act to have special authority.

VIII. No Police Officer shall be competent to act under the provisions of Section V. of this Act, unless he shall have a general, or special authority so to do, granted to him in writing by the Commanding Officer, or other Officer empowered by him to grant the same, or by the Officer in the immediate charge of the Police.

Confiscation of liquor &c. may be adjudged; and fine be awarded to informer &c.

IX. In cases of a conviction for any offence under this Act, the convicting Magistrate may adjudge any liquor, wine, or intoxicating drug, in respect of which the party shall be convicted, and any other spirituous liquor, wine, or intoxicating drug, which shall be found in his possession at the time of committing the offence, and any vessel containing the same, together with anything used for the purpose of conveying, removing, or concealing the same, or any part thereof, to be confiscated; and such Magistrate may order the whole, or any part, or parts of any fine imposed under this Act, to be paid, as soon as the same shall be realized, to the person upon whose information such conviction shall take place, or to the officer who shall have apprehended the offender, or seized any of the goods adjudged to be confiscated.

Things seized may be detained until case is decided.

X. A Magistrate may order any thing seized under the provisions of this Act, in respect of which any person shall be charged with an offence, to be detained until the person in whose possession the same shall have been seized shall be convicted, or acquitted of the offence charged. If the person shall be acquitted, the things so seized shall be restored; if he shall be convicted, such of the things only, if any, as shall not be adjudged by a Magistrate to be confiscated, shall be restored; the remainder shall be dealt with as confiscated.

No appeal.

XI. No appeal shall lie from any order or conviction under the provisions of this Act.

Europeans amenable to magistrate.

XII. European British subjects shall be amenable to the jurisdiction of a Magistrate for any offence against the provisions of this Act.

Powers of Superintendent of bazars in Bombay.

XIII. Within the Presidency of Bombay the Superintendent of bazars may punish any person for any offence against the provisions of this Act in the same manner and to the same extent as he is now authorized to do in any of the cases mentioned in Clause 3, Section XXVI., Regulation XXII. of 1827 of the Bombay Code.

Act not to apply to sales for medicinal purposes

XIV. This Act shall not apply to the sale, or supply of any article for medicinal purposes, by recognized medical practitioners, chemists or druggists.

"Cantonment" &c defined.

XV. In the construction of this Act the word "Cantonment" shall include a "Fortress or Garrison" or *Military bazar station*; the word "Soldier" shall include any Non-Commissioned Officer; the word "Magistrate" shall include a Joint Magistrate, or any person lawfully exercising the powers of a Magistrate, or a Justice of the Peace, the words "spirituous liquor" shall include toddy in a state of fermentation, or after it has been fermented. Words in the singular number shall include the plural, and words denoting the masculine gender shall include the feminine.

When Act is to come into operation.

XVI. This Act shall not come into operation before the 1st day of January 1854 and shall not take effect within any limits around a Cantonment which shall be specified in any order of Government before the expiration of one month from the date of the notification of such order, and any order for extending the provisions of this Act to any limits around a Cantonment may from time to time be varied, altered or suspended by Government.

ACT No. XX. OF 1853.

Passed on the 8th of December 1853.

An Act to amend the Law relating to Pleaders in the Courts of the East India Company.

Whereas it is expedient to amend the law relating to Pleaders in the Courts of the East India Company, It is enacted as follows:—

Regulations repealed.

I. Section XVI. Regulation XXVII. of 1814 of the Bengal Code, and Section XVI. Regulation XIV. of 1816 of the Madras Code, are hereby repealed.

Pleaders not bound to attend Court except when they have a cause.

II. No Pleader shall be bound to attend in any of the Courts of the East India Company, on any day fixed for the transaction of Civil business, or to notify to the Court his inability to attend, unless he shall be employed in some cause or business which, according to the practice of the Court, may be heard or transacted therein on that day, anything in any law or regulation to the contrary notwithstanding.

Attornies of Supreme Court may plead as Barristers in Sudder Court.

III. Every Attorney on the roll of any of Her Majesty's Supreme Courts of Judicature in India shall be entitled as such to plead in any of the Sudder Courts of the East India Company, subject however to all the rules for the time being in force in the said Sudder Courts respectively, applicable to Barristers pleading therein, whether relating to the language in which the Court is to be addressed or to any other matter.

Barristers &c. exempt from specified part of Section IV. of Act I. 1846, *and may plead in Mofussil Courts.*

IV. That part of Section IV. Act No. I. of 1846, which provides that no person shall be admitted a Pleader in any of the Courts of the East India Company, unless he have obtained a Certificate in such manner as shall be directed by the Sudder Courts that he is of good character, and duly qualified for the Office, shall not extend to Barristers or Attornies of any of the said Supreme Courts; but every such Barrister and Attorney shall be entitled as such to plead in any of the Courts of the East India Company subordinate to the Sudder Courts, subject to all the rules in force in the said subordinate Courts respectively applicable to Pleaders therein, so far as such rules relate to the language in which the Court is to be addressed or to any other matter connected with pleading therein.

ACT No. I. OF 1854.

Passed on the 3*d of February* 1854.

An Act to amend the law for facilitating the acquisition of land needed for public purposes within the local limits of the jurisdiction of the Supreme Court of Judicature at Madras.

Act XX. 1852, *modified and rendered applicable to Madras.*

I. The provisions of Act XX. of 1852, as herein modified shall be applicable to all lands situate within the local limits of the jurisdiction of the Supreme Court of Judicature at Madras.

Supreme Court to have same powers as Civil Court under Sec. 14, *Act XX. of* 1852.

II. The powers given to the Civil Court of the Zillah in Section XIV. of Act No. XX. of 1852 [illegible], for the purposes of this Act, be exercised by the Supreme Court of Judicature at Madras, either upon motion or petition: and the said Court, upon the investigation of any matter under the provisions of this section may compel the attendance of wit-

nesses, and take their evidence in the same manner as upon a trial of an action at law, and the said Court upon such motion or petition may award such costs as they may think just.

Compensation money in Securities to be deposited with Govt. Agents

III. In all cases in which payment of any part of the purchase or compensation money exceeding in amount the sum of five hundred Rupees is held in deposit according to Section XV., Act XX. of 1852 on account of any lands taken for any public purpose under this Act, the Government Securities mentioned in the said Section shall be deposited with the Government Agents at Fort St. George, *(a)* in the name and with the privity of the Accountant General of Her Majesty's Supreme Court of Judicature at Fort St. George to be placed by him to the credit of the persons interested in such lands, describing them as nearly as may be done according to the course of proceeding in the said Court in matters and causes depending before it in Equity.

Interest on deposit to be paid to persons entitled to rent &c. of the land.

IV. The said Securities shall remain in the hands of the Government Agents, and the interest accruing on the Securities shall be, from time to time, received and paid under the order of the said Supreme Court to the person or persons for the time being who would have been entitled to receive the rents and profits of the said lands, if the same had not been taken as aforesaid, until there shall be some person or persons absolutely entitled to receive the principal sum of the Monies so reserved, and thereupon the said Government Securities, with all interest then due thereon, shall be transferred and paid to such person or persons under the like order of the said Court, and so long as no person can be found entitled to receive the interest of the said Government Securities, the Government Agent shall continue to receive, and from time to time to invest the accumulation of interest due thereon in the purchase of other Government Securities, to be held and applied by him on the same trusts as the Securities first purchased.

When person absolutely entitled is found, monies to be made over to him.

Claims to sums under 500 Rs. may be determined by Small Cause Court.

V. The right to receive payment of all sums not exceeding five hundred Rupees which shall be held in deposit under the said Section XV. Act No. XX. of 1852 may be determined by the Madras Court of Small Causes, and the said Court may make an order for the payment thereof, which order shall be a sufficient indemnity to the Government and all persons acting in obedience thereto.

(*a*) The Government Agency has been abolished.—See note (*b*) on page 189.

ACT No. III. OF 1854.

Passed on the 3d of February 1854.

An Act to amend the 38th Article of War for The Native Army.

Whereas it is expedient that any Native Soldier who shall make away with or pawn any medal granted to him for service in the Field or for general good behaviour, should be punished for such unsoldier-like conduct; It is enacted :—

Extends Article 38th, to pawning of medal &c.

That there shall be added to the 38th Article of War, for the Government of the Native Officers and Soldiers in the Military Service of the East India Company, the words following—that is to say :—" or who shall make away " with or pawn any medal, or decoration, granted to him by order of Her " Majesty, or of the East India Company, or by order of Government, for " service in the Field or for general good conduct."

ACT No. VI. OF 1854.

Passed on the 10th of February 1854.

An Act to amend the practice and course of proceeding on the Equity side of Her Majesty's Supreme Courts of Judicature at Fort William in Bengal, Madras, and Bombay.

Whereas it is expedient to amend the practice and course of proceeding on the Equity side of Her Majesty's Supreme Courts of Judicature at Fort William in Bengal, Madras and Bombay respectively; It is enacted as follows :—

Prescribes form of bill of complaint, &c.

I. Every bill of complaint to be filed in any of the said Courts after the time hereinafter appointed for the commencement of this Act, shall contain, as concisely as may be, a narrative of the material facts, matters and circumstances on which the plaintiff relies, such narrative being divided into paragraphs numbered consecutively, and each paragraph containing, as nearly as may be, a separate and distinct statement or allegation, and shall pray specifically for the relief which the plaintiff may conceive himself entitled to, and also for general relief, but such bill of complaint shall not contain any interrogatories for the examination of the defendant.

Interrogations to be filed and served if answer be required.

II. Within a time, to be limited by the rules or orders to be made by the Judges of the said Court respectively in that behalf, the plaintiff in any suit in any of the said Courts commenced by bill may, if he re-

quires an answer, from any defendant thereto, file in the sworn clerk's or other proper office of the said Court, interrogatories for the examination of the defendant or defendants, or such of them from whom he shall require an answer, and deliver to the defendant or defendants so required to answer or to his or their solicitor, a copy of such interrogatories, or of such of them as shall be applicable to the particular defendant or defendants, and no defendant shall be called upon or required to put in any answer to a bill unless interrogatories shall have been so filed, and a copy thereof delivered to him or his solicitor, within the time so to be limited, or within such further time as the Court shall think fit to direct.

Defendant not otherwise required to put in answer.

III. Whether the plaintiff in any suit in any of the said Courts shall or shall not require any answer from the defendant, or any one or more of the defendants to the bill, such defendant or defendants may, without leave of the Court, put in a plea, answer, or demurrer to the plaintiff's bill within the time now allowed to the defendant for demurring alone to a bill, or within such other time as shall be fixed by any rules or orders to be framed by the Judges of the said Courts respectively in that behalf; but after that time a defendant or defendants not required to answer the plaintiff's bill shall not be at liberty to put in a plea, answer, or demurrer to the bill, without leave of the Court; provided that the power of the Court to grant further time for pleading, answering, or demurring to any bill, upon the application of any defendant or defendants thereto, whether required to answer the bill or not, shall remain in full force, and shall not be in any wise prejudiced or affected; provided also that if the Court shall grant any further time to any defendant for pleading, answering, or demurring to the bill, the plaintiff's right to move for a decree under the provisions hereinafter contained shall in the meantime be suspended.

Defendant may within specified time put in plea, demurrer &c., but not afterwards without leave.

IV. The answer of the defendant to any bill of complaint in any of the said Courts may contain not only the answer of the defendant to the interrogatories so filed as aforesaid, but such statements material to the case as the defendant may think it necessary or advisable to set forth therein, and such answer shall also be divided into paragraphs, numbered consecutively, each paragraph containing, as nearly as may be, a separate and distinct statement or allegation.

Prescribes form of answer

Plaintiff may, before replication, move for decree, and affidavits by both parties may be filed pro and con.

V. The plaintiff in any suit commenced by bill shall be at liberty, at any time after the time allowed to the defendant for answering the same shall have expired (but before replication), to move the Court, upon such notice as shall in that behalf be prescribed by any rule or order to be made by the Judges of the said Courts respectively, for such decree or decretal order as he may think himself entitled to, and the plaintiff and defendant respectively shall be at liberty to file affidavits in support of and in opposition to the motion so to be made, and to use the same on the hearing of such motion; and if such motion shall be made after an answer filed in the cause, the answer shall, for the purposes of the motion be treated as an affidavit.

Court may grant or refuse, or make other order.

VI. Upon any such motion for a decree or decretal order, it shall be discretionary with the Court to grant or refuse the motion, or to make an order giving such directions for or with respect to the further prosecution of the suit as the circumstances of the case may require, and to make such order as to costs as it may think right.

Bills not to be excepted for scandal or impertinence, but may be amended.

VII. The practice of excepting to bills, answers and other proceedings in the said Courts for scandal or impertinence, shall be, and the same is hereby abolished; provided that it shall be lawful for any of the said Courts or for a Judge thereof to order any scandalous or impertinent matter introduced into any proceeding in the Court to be expunged, and any costs occasioned thereby, together with the costs of any application for the purpose to be paid by the party introducing the same.

Production of documents by defendant may be enforced by Court.

VIII. It shall be lawful for the Court, upon the application of the plaintiff in any suit in any of the said Courts, whether commenced by bill or by claim, and as to a suit commenced by bill, whether the defendant may or may not have been required to answer the bill, or may or may not have been interrogated as to the possession of documents, to make an order for the production by any defendant, upon oath, of such of the documents in his possession or power relating to matters in question in the suit as the Court shall think right, and the Court may deal with such documents when produced in such manner as shall appear just.

Defendant may file interrogatories for examination of Plaintiff

IX. It shall be lawful for any defendant in any suit, whether commenced by bill or by claim, but in suits commenced by bill which the defendant is required to answer not until after he shall have put in a sufficient answer to the bill, and without filing any

cross bill of discovery, to file, in the sworn clerk's or other proper office of the Court wherein such suit is pending, interrogatories for the examination of the plaintiff to which shall be prefixed a concise statement of the subjects on which a discovery is sought, and to deliver a copy of such interrogatories to the plaintiff or his solicitor, and such plaintiff shall be bound to answer such interrogatories, in like manner as if the same had been contained in a bill of discovery filed by the defendant against him on the day when such interrogatories shall have been filed, and as if the defendant to such bill of discovery had on the same day duly appeared; and the practice of the Court with reference to excepting to answers for insufficiency, or for scandal, shall extend and be applicable to answers put into such interrogatories; provided that in determining the materiality or relevancy of any such answer, or of any exception thereto, the Court is to have regard, in suits commenced by bill, to the statement contained in the original bill, and the answer which may have been put in thereto by the defendant exhibiting such interrogatories for the examination of the plaintiff, and in suits commenced by claim, to the statements therein, and in any affidavits which may have been filed either in support thereof or in opposition thereto; provided also that a defendant, if he shall think fit so to do, may by leave of the Court or of a Judge thereof exhibit a cross bill of discovery against the plaintiff, instead of filing interrogatories for his examination.

Or exhibit cross bill with leave of Court.

X. It shall be lawful for the Court, upon the application of any defendant in any suit, whether commenced by bill or by claim, but as to suits commenced by bill where the defendant is required to answer the plaintiff's bill not until after he has put in a full and sufficient answer to the bill, unless the Court shall make any order to the contrary, to make an order for the production by the plaintiff in such suit, on oath, of such of the documents in his possession or power relating to the matters in question in the suit as the Court shall think right, and the Court may deal with such documents when produced in such manner as shall appear just.

Plaintiff may be compelled to produce documents on application of defendant.

XI. Every plea, answer, disclaimer, or examination may be sworn and filed without any further or other formality than is required in the swearing and filing of an affidavit.

Formality in respect to swearing and filing Plea &c.

XII. In suits commenced in any of the said Courts by bill, where notice of motion for a decree or decretal order shall not have been given, or, having been given, where a decree or decretal order shall not have been made thereon, issue shall

When issue may be joined by replication.

be joined by filing a replication, in the form or to the effect of the replication now in use in the said Courts respectively, and where a defendant shall not have been required to answer and shall not have answered the plaintiff's bill, he shall be considered to have traversed the case made by the bill.

When defendant does not file an answer, he is to be considered as having traversed the case.

XIII. Where a defendant to a suit in any of the said Courts commenced by bill shall not have been required to answer the bill, and shall not have answered the same, such defendant shall be at liberty to move to dismiss the bill for want of prosecution, at such times and under such circumstances, and subject to such restrictions, as shall be in that behalf prescribed by any rules or orders to be made by the Judges of the said Courts respectively in that behalf.

When motion to dismiss the Bill may be made

XIV. Every affidavit to be used in any of the said Courts shall be expressed in the first person and shall be divided into paragraphs, and every paragraph shall be numbered consecutively, and, as nearly as may be, shall be confined to a distinct portion of the subject. Provided that nothing herein contained shall preclude the Court or any Judge thereof in any case in which such Court or Judge may think fit so to do from allowing any affidavit to be used, notwithstanding the same may not be made according to the provisions of this Section.

Form of affidavit.

Proviso.

XV. When any suit commenced in any of the said Courts by bill shall be at issue, the Court or a Judge thereof may, upon the application of any of the parties to the suit, and by consent of all the other parties thereto, make an order that the parties shall be at liberty to verify their respective cases by affidavit, and such cases may thereupon be verified accordingly. If any one or more of the parties, who shall not have a sufficient interest in the matters in question to require the evidence to be oral, shall not consent to the making of such order, the Court or a Judge thereof, may make the same without the consent of such party or parties.

On application and consent of parties case may be verified by affidavit.

XVI. If no such order shall be made, evidence to be adduced in the cause after issue joined therein shall be taken orally before the Court, and the attendance of witnesses and the production of documents may be enforced in the manner for the time being in use on the Common Law side of the said Courts respectively; provided that the Court may order any particular witness or witnesses within the jurisdiction of the Court, or

Otherwise evidence to be taken orally; but Court may examine by Commission, &c.

any witness or witnesses out of the jurisdiction of the Court, to be examined, upon interrogatories or otherwise, under a commission, and to make such order relating to such examination as the Court may think fit; and provided also that affidavits of particular witnesses, or affidavits as to particular facts or circumstances, may, by consent of the parties, or by leave of the Court obtained upon notice, be used on the hearing of any cause; such consent, and also the consent required by the Section XV. of this Act, may, with the approbation of the Court, be given by or on the part of any married woman, infant or other persons under disability (*a*)

Attendance of witnesses may be enforced &c. and costs paid.

XVII. Upon the hearing of any suit depending in any of the said Courts whether commenced by bill or claim, and also upon the hearing of any motion, petition or other proceeding in any of the said Courts, the Court may, upon the application of any of the parties thereto, or of its own accord, require and enforce the attendance and oral examination before itself of any witness, or of any party to the suit, and may also require and enforce the production of any document or documents, and may direct the costs of the attendance and examination of such witness or party and of the production of such document or documents to be paid by such of the parties to the suit, or in such manner as it may think fit.(*b*)

Party may issue subpœna: attendance &c. of witnesses.

XVIII. Any party in any suit or matter may, by order of the Court or of a Judge thereof, issue a writ of subpœna ad testificandum or duces tecum, for the purpose of compelling the attendance of any person before the said Courts, or before a Commissioner or Commissioners at a time and place to be specified in such subpœna, to give evidence and produce documents in support of, or in opposition to, any claim, motion, petition, or other proceeding before the Court; and every person served with such subpœna shall be bound to attend in pursuance thereof, and to produce documents, and to give evidence, in like manner and subject to the same rules as a witness subpœnaed to attend or produce documents upon the trial of any cause in the said Court.

Person making affidavit may be subjected to cross examination &c.

XIX. Any person who shall make an affidavit which shall be used or filed by any party to a suit in any of the said Courts, may, by the order of the Court or of a Judge thereof, be subjected to oral cross-examination by or before the Court, or by or before a Commissioner

(*a*) Certain of the provisions contained in this Section have been extended to all Civil actions, suits and proceedings on all sides of the Supreme Court, by Sections LIII. and LIV. of Act II of 1855.

(*b*) Vide above note.

or Commissioners, and may be subpœnaed to attend for that purpose, and to produce any document or documents, at a time and place to be specified in the subpœna; and any person so subpœnaed shall be bound to attend and produce such document or documents in pursuance of such subpœna, in the same manner and subject to the same rules, as a witness subpœnaed to attend and give evidence or produce documents on the trial of a cause, and such person may be cross-examined and re-examined orally; provided that the Court shall always have a discretionary power of acting upon such evidence as may be before it at the time, and of making such interim orders as may appear necessary to meet the justice of the case.

Costs of attendance by whom to be paid.

XX. The costs of the attendance of any person, for the purpose of cross-examination as aforesaid, and of the said cross-examination and re-examination, shall be paid by the parties respectively, in like manner as if the person so attending to be cross-examined were the witness of the party cross-examining, and shall be deemed costs in the cause of such parties respectively, unless the Court shall otherwise direct.

Defendant not to take objection for want of parties in cases mentioned.

XXI. It shall not be competent to any defendant in any suit in any of the said Courts to take any objection for want of parties to such suit, in any case to which the rules hereinafter set forth extend, and such rules shall be deemed and taken as part of the law and practice of the said Courts respectively, and any law or practice of any of the said Courts inconsistent therewith shall be and is hereby abrogated and annulled.

Rules for institution of suit by residuary legatee, legatees, devisee &c.

Rule 1st.—Any residuary legatee or next of kin may, without serving the remaining residuary legatees or next of kin, have a decree for the administration of the personal estate of a deceased person.

Rule 2nd.—Any legatee interested in a legacy charged upon real estate and any person interested in the proceeds of real estate directed to be sold may, without serving any other legatee or person interested in the proceeds of the estate, have a decree for the administration of the estate of a deceased person.

Rule 3rd.—Any residuary devisee or heir may, without serving any co-residuary devisee or co-heir, have the like decree.

Rule 4th.—Any one of several cestuis que trust under any deed or instrument may, without serving any other of such cestuis que trust, have a decree for the execution of the trusts of the deed or instrument.

Rule 5th.—In all cases of suits for the protection of property pending litigation, and in all cases in the nature of waste, one person may sue on behalf of himself and of all persons having the same interest.

Rule 6th.—Any executor, administrator or trustee may obtain a decree against any one legatee, next of kin, or cestui que trust, for the administration of the estate or the execution of the trusts.

Rule 7th.—In all the above cases the Court, if it shall see fit, may require any other person or persons to be made a party or parties to the suit, and may, if it shall see fit, give the conduct of the suit to such person as it may deem proper, and may make such order in any particular case as it may deem just for placing the defendant on the record on the same footing in regard to costs as other parties having a common interest with him in the matters in question.

Rule 8th.—In all the above cases the persons who, according to the present practice of the Court, would be necessary parties to the suit shall be served with notice of the decree, and after such notice they shall be bound by the proceedings in the same manner as if they had been originally made parties to the suit, and they may, by an order of Court, have liberty to attend the proceedings under the decree. and any party so served may, within such time as shall in that behalf be prescribed by any general rule or order to be made by the said Courts respectively in that behalf, apply to the Court to add to the decree.

Rule 9th.—In all suits concerning real or personal estate which is vested in trustees under a will, settlement, or otherwise, such trustees shall represent the persons beneficially interested under the trust, in the same manner and to the same extent as the executors or administrators in suits concerning personal estate represent the persons beneficially interested in such personal estate, and in such cases it shall not be necessary to make the persons beneficially interested under the trusts parties to the suit, but the Court may upon consideration of the matter on the hearing if it shall so think fit order such persons or any of them to be made parties.

Cause not to be set down on objection for want of parties.

XXII. The practice of setting down a cause merely on an objection for want of parties to the suit shall be abolished.

In case of want of legal representative, Court may appoint one.

XXIII. If in any suit or other proceeding before any of the said Courts it shall appear to the Court that any deceased person who was interested in the matters in question has no legal personal representative, it shall be lawful for the Court either to proceed in the absence

of any person representing the estate of such deceased person, or to appoint some person to represent such estate for all the purposes of the suit or other proceeding, on such notice to such person or persons, if any, as the Court shall think fit, either specially or generally by public advertisements; and the order so made by the Court, and any orders consequent thereon, shall bind the estate of such deceased person, in the same manner in every respect as if there had been a duly constituted legal personal representative of such deceased person and such legal personal representative had been a party to the suit or proceeding, and had duly appeared and submitted his rights and interests to the protection of the Court.

Creditor &c. may require executor &c. to administer to the estate.

XXIV. It shall be lawful for any person claiming to be a creditor, or a specific pecuniary or residuary legatee, or the next of kin, or some or one of the next of kin of a deceased person, to apply for and obtain as of course without bill or claim filed, or any other preliminary proceedings, a summons from a Judge of any of the said Courts requiring the executor or administrator, as the case may be, of such deceased person, to attend before him at chambers for the purpose of showing cause why an order for the administration of the personal estate of the deceased should not be granted, and upon proof by affidavit of the due service of such summons, or on the appearance in person, or by his solicitor or counsel, of such executor or administrator, and upon proof by affidavit of such other matters, if any, as such Judge shall require, it shall be lawful for such Judge, if in his discretion he shall think fit so to do, to make the usual order for the administration of the estate of the deceased with such variations, if any, as the circumstances of the case may require, and the order so made shall have the force and effect of a decree to the like effect made on the hearing of a cause or claim between the same parties; provided that such Judge shall have full discretionary power to grant or refuse such order, or to give any special directions touching the carriage or execution of such order, and in the case of applications for any such order by two or more different persons or classes of persons, to grant the same to such one or more of the claimants, or of the classes of claimants, as he may think fit; and if the Judge shall think proper, the carriage of the order may subsequently be given to such party interested, and upon such terms as the Judge may direct.

Proviso.

XXV. A duplicate or copy of such summons shall, previously to

Duplicate of summons to be filed and copy served: the same to be countersigned by Registrar, &c.

the service thereof, be filed in the office of the Registrar or other proper officer of the Court, and no service thereof upon any executor or administrator shall be of any validity unless the copy so served shall be countersigned by such registrar or other officer as an indication of the filing thereof, and the filing of such summons shall have the same effect with respect to *lis pendens* as the filing of a bill or claim.

The above prescribed procedure to be followed in case of creditor &c., applying for administration of a Hindoo or Mahomedan estate.

XXVI. It shall be lawful for any person claiming to be a creditor of a deceased person, or interested under his will, to apply for and obtain in a summary way, in the manner herein-before provided with respect to the personal estate of a deceased person, an order for the administration of the immoveable estate of such deceased person, if a Hindoo or a Mahomedan, or a Parsee; or for the administration of the real estate of any deceased person, not being a Hindoo, or a Mahomedan, or a Parsee where the whole of such real estate is by devise vested in trustees who are by the will empowered to sell such real estate, and authorized to give receipts for the rents and profits thereof, and for the produce of the sale of such real estate; and all the provisions herein-before contained with respect to the application for such order, in relation to the personal estate of a deceased person and consequent thereon, shall extend and be applicable to applications for such orders as herein-before mentioned with respect to immoveable or real estate.

Court may order sale &c. in suit for foreclosure.

XXVII. It shall be lawful for the Court, in any suit for the foreclosure of the equity of redemption in any mortgaged property, upon the request of the mortgagee or of any subsequent incumbrancer, or of the mortgagor, or any person claiming under them respectively, to direct a sale of such property instead of a foreclosure of such equity of redemption on such terms as the Court may think fit to direct, and if the Court shall so think fit without previously determining the priorities of incumbrances, or giving the usual or any time to redeem; provided that if such request shall be made by any subsequent incumbrancer, or by the mortgagor, or by any person claiming under them respectively, the Court shall not direct any such sale without the consent of the mortgagee, or the persons claiming under him, unless the party making such request shall deposit in Court a reasonable sum of money, to be fixed by the Court, for the purpose of securing the performance of such terms as the Court may think fit to impose on the party making such request.

Suit not to be dismissed for misjoinder of plaintiff: Court how to proceed in such case.

XXVIII. No suit in any of the said Courts shall be dismissed by reason only of the misjoinder of persons as plaintiffs therein, but wherever it shall appear to the Court that notwithstanding the conflict of interest in the co-plaintiffs, or the want of interest in some of the plaintiffs, or the existence of some ground of defence affecting some or one of the plaintiffs, the plaintiffs or some or one of them are or is entitled to relief, the Court shall have power to grant such relief and to modify the decree according to the special circumstances of the case, and for that purpose to direct such amendments, if any, as may be necessary, and at the hearing, before such amendments are made, to treat any one or more of the plaintiffs as if he or they was or were a defendant or defendants in the suit, and the remaining or other plaintiff or plaintiffs was or were the only plaintiff or plaintiffs on the record; and where there is a misjoinder of plaintiffs and the plaintiff having an interest shall have died leaving a plaintiff on the record without an interest, the Court may, at the hearing of the cause, order the cause to stand revived, as may appear just, and proceed to a decision of the cause if it shall see fit, and to give such directions as to costs or otherwise as may appear just and expedient.

Suit not open to objection on ground that a merely declaratory decree is sought &c.

XXIX. No suit in any of the said Courts shall be open to objection on the ground that a merely declaratory decree or order is sought thereby, and it shall be lawful for the Court to make binding declarations of right without granting consequential relief.

Court may adjudicate on questions, concerning only some of the parties suing &c.

XXX. It shall be lawful for the Court to adjudicate on questions arising between parties notwithstanding that they may be some only of the parties interested in the property respecting which the question may have arisen, or that the property in question is comprised with other property in the same settlement, will, or other instrument, without making the other parties interested in the property respecting which the question may have arisen, or interested under the same settlement, will, or other instrument, parties to the suit, and without requiring the whole trusts and purposes of the settlement, will, or other instrument to be executed under the direction of the Court, and without taking the accounts of the trustees or other accounting parties, or ascertaining the particulars or amount of the property touching which the question or questions may have arisen; provided always, that if the Court shall

be of opinion that the application is fraudulent or collusive, or for some other reason ought not to be entertained, it shall have power to refuse to make the order prayed.

Form of reviving suits

XXXI. Upon any suit in any of the said Courts becoming abated by death, marriage or otherwise, or defective by reason of some change or transmission of interest or liability, it shall not be necessary to exhibit any bill of revivor or supplemental bill in order to obtain the usual order to revive such suit or the usual or necessary decree or order to carry on the proceedings; but an order to the effect of the usual order to revive, or of the usual supplemental decree, may be obtained as of course, upon a suggestion of the abatement of such suit or of the same having become defective, and of the change or transmission of interest or liability; and an order so obtained when served upon the party or parties who, according to the present practice of the Court, would be defendant or defendants to the bill of revivor or supplemental bill, shall from the time of such service, be binding on such party or parties in the same manner in every respect as if such order had been regularly obtained according to the existing practice of the Court, and such party or parties shall thenceforth become a party or parties to the suit, and shall be bound to enter an appearance thereto in the office of the registrar or other officer of the Court within such time and in like manner as if he or they had been duly served with process to appear to a bill, of a revivor or supplemental bill filed against him or them; provided that it shall be open to the party or parties so served, within such time after service as shall be in that behalf prescribed by any rule or order to be made by the Judges of the said Courts respectively to apply to the Court by motion or petition to discharge such order on any ground which would have been open to him of them on a bill of revivor or supplemental bill, stating the previous proceedings in the suit and the alleged change or transmission of interest or liability, and praying the usual relief consequent thereon, provided also, that if any party so served shall be under any disability, other than coverture, such order shall be of no force or effect as against such party until a guardian or guardians *ad litem* shall have been duly appointed for such party, and such time shall have elapsed thereafter as shall be prescribed by any rule or order to be made by the Judges of the said Courts respectively in that behalf.

XXXII. It shall not be necessary to exhibit any supplemental bill

How issue facts &c. occurring after institution of suit may be put in.

in any of the said Courts for the purpose only of stating or putting in issue facts or circumstances which may have occurred after the institution of any suit; but such facts or circumstances may be introduced by way of amendment into the original bill of complaint in the suit, if the cause is otherwise in such a state as to allow of an amendment being made in the bill, and if not, the plaintiff shall be at liberty to state such facts or circumstances on the record, in such manner and subject to such rules and regulations, with respect to the proof thereof, and the affording to the defendant leave and opportunity of answering and meeting the same, as shall in that behalf be prescribed, by any rule or order to be made by the Judges of the said Courts respectively.

Court may order the manner of taking accounts.

XXXIII. It shall be lawful for the Court in any case where any account is required to be taken, to give such special directions, if any, as it may think fit, with respect to the mode in which the account should be taken or vouched, and such special directions may be given either by the decree or order directing such account, or by any subsequent order or orders, upon its appearing to the Court that the circumstances of the case are such as to require such special directions, and particularly it shall be lawful for the Court, in cases where it shall think fit so to do to direct that in taking the account, the books of account in which the accounts required to be taken have been kept, or any of them, shall be taken as *prima facie* evidence of the truth of the matters therein contained, with liberty to the parties interested to take such objections thereto as they may be advised.(*a*)

Court may order sale of real estate for purposes of suit.

XXXIV. If after a suit shall have been instituted in any of the said Courts in relation to any real estate it shall appear to the Court that it will be necessary or expedient that the said real estate, or any part thereof, should be sold for the purposes of such suit it shall be lawful for the said Court to direct the same to be sold at any time after the institution thereof, and such sale shall be as valid to all intents and purposes as if directed to be made by a decree or decretal order on the hearing of such cause; and any party to the suit, in possession of such estate, or in receipt of the rents and profits thereof, shall be compelled to deliver up such possession or receipt to the purchaser or such other person as the Court shall direct.

XXXV. Where any real or immoveable or any personal property

(*a*) Extended to all sides of the Court by Section LV of Act II of 1856.

If property exceed the claims thereon, parties interested may be allowed annual income &c.

shall form the subject of any proceedings in any of the said Courts, and the Court shall be satisfied that the same will be more than sufficient to answer all the claims thereon, which ought to be provided for in such suit, it shall be lawful for the said Court, at any time after the commencement of such proceedings, to allow to the parties interested therein, or any one or more of them, the whole or part of the annual income of such real or immoveable property, or a part of such personal property, or a part or the whole of the income thereof, up to such time as the said Court shall direct, and for that purpose to make such orders as may appear to the said Court necessary or expedient, and from time to time to alter the same.

On application for injunction &c, answer to be regarded as affidavit &c.

XXXVI. Upon application by motion or petition to any of the said Courts in any suit depending therein for an injunction or for a receiver, or to dissolve an injunction or discharge an order appointing a receiver, the answer of the defendant shall, for the purpose of evidence on such motion or petition, be regarded merely as an affidavit of the defendant, and affidavits may be received and read in opposition thereto.

Proceedings may be rectified on payment of costs.

XXXVII. In case any of the directions herein contained with respect to the practice and course of proceedings in any of the said Courts shall, by mistake of parties, failed to be followed in any suit or proceeding in any of the said Courts, it shall be lawful for the Court, if it shall think fit upon payment of such costs as such Court shall direct, to make such order giving effect to and rectifying such proceedings as may be justified by the merits of the case.

When legal title or right may be determined by Court of Equity.

XXXVIII. In cases where, according to the present practice of the said Courts, they decline to grant equitable relief until the legal title or right of the party or parties seeking such relief shall have been established in a proceeding at law, any of the said Courts, sitting as a Court of Equity, may itself determine such title or right, without requiring the parties to proceed at law to establish the same.

Court or a Judge may decide matters usually referred to Master.

XXXIX. It shall be lawful for any of the said Courts in any case in which it shall think fit so to do to refer to a Judge of the Court any matters now usually referred to the Master; and also for any of the said Courts to hear and investigate either in Court or

in Chambers any such matters, and to decide any case without a reference either to a Judge or to a Master; and all the powers, authority and jurisdiction given to or vested in the Masters of the said Courts respectively by any act, law, or practice shall be deemed to have been given to or vested in any of the Judges of the said Courts respectively as well as to or in the said Masters.

Report of Judge or Master to be deemed confirmed if exceptions be not filed within 14 days.

XL. If exceptions to the report of a Judge or Master of any of the said Courts be not filed within fourteen days after the date of the report, it shall not be necessary to obtain any order of the Court for the confirmation of such report; but such report shall be deemed to be confirmed from and after the expiration of such fourteen days.

If exception be allowed, Court may investigate the matter.

XLI. If any exception to the report or Certificate of a Judge or Master be allowed by the Court it shall not be necessary to refer the case back to the Judge or Master; but the Court may, if it think fit so to do, hear and investigate in Court or in Chambers any matter which it may be necessary to decide in consequence of the allowance of such exception, and to decide the case without any further reference to a Judge or to the Master.

Application for time to plead answer, leave to amend bill &c. &c. may be decided in Chambers.

XLII. Any of the following matters may be disposed of by a Judge of any of the said Courts respectively while sitting in Chambers, videlicet, applications for time to plead answer or demur, for leave to amend bills or claims for the production of documents, also applications relating to the conduct of suits or matters, and as to the guardianship and maintenance of infants, matters connected with the management of property, and such other matters as any Judge shall from time to time see fit, or as the Court shall by any general rule or order direct. Provided that any order of a Judge sitting in Chambers may be set aside or altered by the Court upon such terms as the Court shall think fit.

General Rules may be made by Court subject to sanction and rescindment.

XLIII. The Judges of the said Courts respectively may, from time to time, make General Rules and Orders for carrying the purposes of this Act into effect, for regulating the times and form and mode of proceeding, in Court and in Chambers and in the offices of the Masters of the

said Courts respectively, for abolishing common injunctions in any case where the practice exists, and generally for regulating the practice of the said Court, in respect of the matters to which this Act relates; for fixing and regulating the fees and allowances to all officers of the said Court and solicitors thereof, and, so far as may be found expedient, for altering the course of proceeding herein-before prescribed in respect to the matters to which this Act relates or any of them; and such Rules and Orders may from time to time, be rescinded or altered by the like authority, and all such Rules and Orders shall be subject to be confirmed or disallowed by the Governor General of India in Council, and to be altered or rescinded by Her Majesty, her heirs or successors in Council, in the same manner as the like Rules and Orders would have been, if made by the said Courts respectively under their general or statutory power of making Rules.

Extension and construction of this Act.

XLIV. This Act shall extend to suits and proceedings on the Equity side only of the said Supreme Courts; and in the construction of this Act the words "Bill of Complaint" shall mean and include "information" and the word "Affidavit" shall mean and include "Affirmation" in cases where affirmation is allowed.

Time of commencement of Act.

XLV. This Act shall commence and take effect from and after the 1st day of May 1854. Provided that it shall be lawful for the Judges of the said Courts respectively to make and issue any such Rules or Orders as aforesaid at any time after the passing of this Act, but the same shall not take effect before the time appointed for the commencement of this Act.

ACT No. VII. OF 1854.

Passed on the 17th of February 1854.

An Act for the apprehension within the territories under the Government of the East India Company, of persons charged with the Commission of heinous offences beyond the limits of the said territories, and for delivering them up to Justice, and to provide for the execution of warrants in places out of the Jurisdiction of the authorities issuing them.

Preamble.

Whereas it is expedient to provide for apprehending and delivering up to justice persons whether subjects of the British or of any Foreign Government who shall take refuge or be found in any part of the territories under the Government of the East India Company and shall be charged with having been guilty of heinous offences in any part of the dominions of Her Majesty, or in the territories

of any Foreign Prince or State; to facilitate the execution in any part of the territories under the Government of the East India Company of warrants issued by competent Officers in any other parts thereof; and to enable the Government of any Presidency or place within such last mentioned territories to carry out treaties entered into by or on behalf of Her Majesty, or the East India Company with any Foreign Prince or State; It is enacted as follows:—

On requisition of British or Foreign authority to deliver up persons accused of heinous offences, order may be made for enquiry into the charge.

I. If requisition be made by or by the authority of the person or persons for the time being, administering the executive Government of any part of the dominions of Her Majesty, to the Government of any part of the British territories in India to deliver up to justice any persons accused of having been guilty of any heinous offence in any part of Her Majesty's dominions, subject to the Government making the requisition, and who shall be, or shall be supposed to be, in any part of the British territories in India, subject to the Government to which the requisition shall be made, or if a similar requisition be made by any Foreign Prince or State, or by any duly authorized Minister or Officer thereof in respect of a person accused of having been guilty of any heinous offence in any part of the territories of such Foreign Prince or State, it shall be lawful for the Government to which the requisition shall be made if it shall see fit so to do to issue an order in writing for inquiry into the truth of the charge; and such order shall be sufficient proof of the requisition having been duly made, and a sufficient justification for all acts done in pursuance thereof.

By whom order shall be signed, to whom directed, and what it shall specify.

II. The order shall be signed by one of the Secretaries to the Government, it shall be directed to all Magistrates and Justices of the Peace of the Presidency or place under the control of such Government, it shall signify that the requisition has been made, shall state the nature of the offence charged, the name or other designation, if the name be not known, of the person accused, and any other description of him that may be thought necessary, and it shall require the Magistrates and Justices to whom it shall be directed or any of them to inquire into the truth of the charge, and to proceed in pursuance of this Act.

Magistrates to have jurisdiction on production of order.

III. Upon the production of the order to any such Magistrate or Justice of the Peace, he shall have the same powers as if the offence charged had been committed within his jurisdiction.

IV. If the evidence adduced shall in the judgment of the Magis-

What warrant for apprehension shall contain

trate or Justice of the Peace be sufficient to justify the apprehension of the person accused for the offence, the Magistrate or Justice of the Peace shall issue his warrant for the apprehension of such person. The warrant shall be issued in the same manner as a warrant for an offence committed within the jurisdiction of the Magistrate or Justice of the Peace issuing it, and shall contain a memorandum stating that a warrant is issued under this Act, and if the warrant be issued under an order of Government, shall also state the fact and specify the Government. The memorandum may be to the following effect :—

This warrant is issued under Act No. VII. of 1854, and is issued under an order of the Government of

Warrant may be issued beyond jurisdiction of Magistrate issuing, on being endorsed as prescribed.

V. The warrant of any Magistrate or Justice of the Peace having jurisdiction in any part of the territories under the Government of the East India Company for the arrest of any person charged with having committed any offence whether such warrant be issued under the provisions of this Act or not may be executed within the jurisdiction of any other Magistrate or Justice of the Peace having jurisdiction in any part of the said territories, whether in the same Presidency or not, upon having a written authority under the hand and seal of the Magistrate or Justice of the Peace, within whose jurisdiction it may be executed, previously endorsed thereon, and which endorsement may be to the following effect:

To the Nazir [or other Officer as the case may be] of the Zillah of

"This warrant may be executed in the zillah or district of " (describing the zillah or district of the indorsing Magistrate or Justice of the Peace) " by any of the Officers to whom the same is directed or by " [describing by his name of Office the Officer, to whom a similar warrant, issued by the indorsing Magistrate or Justice of the Peace, would be directed.]

Who shall be answerable for illegal issue of warrant.

VI. The Magistrate indorsing a warrant in pursuance of the Provisions of Section V. of this Act, shall not be liable to any action or other proceeding in consequence of any illegality in the issuing of the warrant; but any Magistrate illegally or improperly issuing the same, shall be liable for an arrest in pursuance of the indorsement in the same manner and

to the same extent only as if the warrant had been executed within his own jurisdiction.

Course to be pursued on apprehension of offender.

VII. Upon the apprehension of the supposed offender, if the offence be alleged to have been committed in any part of the territories under the Government of the East India Company, he shall be carried before the Magistrate within whose jurisdiction the offence shall be alleged to have been committed, and shall be by him dealt with according to law, unless by the warrant the Officer be authorized to take bail or security and such bail or security be given for the appearance of the person accused before the Magistrate or Justice of the Peace of the zillah or district in which the offence shall be alleged to have been committed. If the offence be charged to have been committed in any place not within the territories under the Government of the East India Company, the person arrested shall be forthwith carried before a Magistrate or Justice of the Peace, of the zillah or district in which he shall be arrested. The Magistrate or Justice of the Peace, before whom the supposed offender shall be carried in pursuance of the last mentioned directions, may proceed in the same manner as in cases in which he has power to commit for trial, or to hold to bail for an offence committed within his own jurisdiction. If after making as full an enquiry into all the circumstances of the case as the evidence obtainable by the Magistrate or Justice of the Peace within the territories under the Government of the East India Company will enable him to make the evidence adduced shall be sufficient in his judgment to warrant a committal, he shall commit the accused to some place of confinement within his zillah or district, which in the judgment of the Magistrate or Justice of the Peace, shall be fit for receiving the prisoner, or if there be no such place, to the gaol of the Presidency, there to remain until he shall be delivered up or discharged by orders of Government; if after making such inquiry the circumstances shall not in the judgment of the Magistrate or Justice of the Peace be sufficient to warrant either the committal or the holding to bail of the prisoner, he shall be discharged.

Bailing of offender.

VIII. If the offence charged be one committed out of the British territories in India which, if committed within the jurisdiction of the Magistrate, would be bailable, the Magistrate or Justice of the Peace may proceed accordingly and may discharge the prisoner upon his giving the necessary bail. The recognizance or bail-bond in such case shall be for the appearance of the

accused before the Magistrate or Justice of the Peace for the time being of the zillah or district in which the recognizance shall be taken on a certain day to be named therein, allowing reasonable time for receiving the orders of Government, and on such subsequent days as the Magistrate or Justice of the Peace for the time being shall from time to time appoint.

Magistrate may send for depositions &c., on which warrant was issued.

IX. If any person shall in pursuance of this Act be carried before a Magistrate or Justice of the Peace other than the one who issued the warrant, or a Magistrate or Justice of the Peace for the time being of the same zillah or district, the depositions and documents upon which the warrant was issued, or copies thereof, to be certified under the hand and seal of the Magistrate or Justice of the Peace of the zillah or district in which the warrant was issued, shall, upon the requisition of the Magistrate or Justice of the Peace before whom such person shall be carried, be forwarded to such Magistrate or Justice of the Peace; and if the warrant be issued under an order of Government, and executed in a Presidency or place, not under the Government issuing the order, notice of the arrest shall be forthwith communicated to such Government, who shall forward the requisition, and any documents relating thereto in their possession to the Government having jurisdiction over the place of arrest, and such last mentioned Government shall have the same powers as the Government who made the order.

Notice of arrest to be given to Govt.

Escape after conviction how to be dealt with.

X. If the person accused of the offence mentioned in any such order of Government be proved to have been convicted and sentenced for the offence charged by a Court of Justice in any part of Her Majesty's dominions in which the offence is alleged to have been committed, and to have escaped before such sentence was carried into execution; the Magistrate or Justice of the Peace, upon proof of such conviction and sentence, may issue a warrant for the apprehension of the person accused and he may be arrested and committed in manner aforesaid without further proof, unless such person shall prove that the conviction or sentence has been reversed or annulled.

When accused may be tried by any other than the Magistrate in whose jurisdiction he was apprehended.

XI. If it appear to the Magistrate or Justice of the Peace, before whom any prisoner shall be carried under this Act for an offence alleged to have been committed in any territories not under the Government of the East India Company, that particular circumstances exist which render it advisable that the case should be investigated

from custody under process for an offence committed in that part of such territories, in which he shall be found.

How warrant issued in any part of H. M. dominions is to be executed.

XVIII. If a warrant be issued in any part of Her Majesty's dominions not under the Government of the East India Company, for the arrest of any person for any heinous offence alleged to have been committed therein, or for the arrest of any person for any heinous offence of which he may have been convicted by a Court of competent jurisdiction, in any such part of Her Majesty's dominions, any Magistrate or Justice of the Peace within the territories under the Government of the East India Company, may, upon the production of such warrant and proof of the signature of the Officer signing it, and of his authority to issue the same, and without any further proof and without any order of Government, issue his warrant for the apprehension of the person accused and after his apprehension may proceed to commit, or hold him to bail in manner aforesaid, and to take such other proceedings as aforesaid as the case may require; but the person accused shall not be delivered over as aforesaid without an order of Government. The Government in such case shall have the same powers as if the proceedings had been taken in pursuance of an order of Government issued under this Act.

When magistrate may arrest without order of Government.

XIX. In cases in which the immediate apprehension within the British territories in India of any person accused of having committed any heinous offence mentioned in Section XXI. of this Act out of such territories shall, in the judgment of a Magistrate or Justice of the Peace having jurisdiction in any part of such territories in which the person accused shall be found, be necessary for the ends of justice, the person accused may without an order of Government be apprehended or proceeded against in the same manner as for an offence charged to have been committed in the place where the person accused shall be found, and after his apprehension he may be committed or held to bail in manner aforesaid, and such other proceedings as aforesaid may be taken as the case may require, but the person accused shall not be delivered up without an order of Government. The Government in such case shall have the same powers as if the proceedings had been taken in pursuance of an order of Government issued under this Act.

XX. If any person imprisoned under this Act shall not either be

Prisoner may apply for discharge if not brought to trial &c., within two months

delivered up or discharged or brought to trial within two calendar months after his committal, it shall be lawful for the principal court of original jurisdiction in criminal cases in the district in which he shall be imprisoned, upon application by or on behalf of the prisoner, to order him to be discharged out of custody, either upon giving such bail as the Court may order, or without bail, unless sufficient cause shall be shewn to the Court why such discharge ought not to be ordered. Provided that no such order shall be made until after notice of the application or of the intention to make the same, shall have been given to Government or to the Secretary or one of the Secretaries thereof.

"Heinous offence" defined.

XXI. The words "heinous offence" in this Act shall be deemed to include treason against Her Majesty committed in any part of Her Majesty's dominions; murder, attempting to murder, rape, great personal violence, maiming, dacoity, thuggee, robbery, burglary, knowingly receiving property obtained by dacoity, robbery or burglary, cattle-stealing, breaking and entering a dwelling-house and stealing therein, arson, setting fire to a village, house, or town, forgery or uttering forged documents, counterfeiting current coin, knowingly uttering base or counterfeit coin, perjury, subornation of perjury, embezzlement whether by public officers or other persons, and being an accessory to any of the above-mentioned offences.

"Heinous offence" further defined

XXII. The said words "heinous offence" in this Act shall also be deemed to include any offence, for which by any treaty in force between Her Majesty or the East India Company, and any Foreign Prince or State, Her Majesty or the East India Company, shall, at the time of making any requisition as aforesaid, be bound to deliver up offenders to the foreign Prince or State making the same, and any other offence which in the judgment of the Government to whom the requisition shall be made, shall be serious or aggravated, and for which the person accused cannot be tried within the territories under the Government of the East India Company under the provisions of Act No. I. 1849.

Delivery under treaty, of persons guilty of offences not provided for in the Act.

XXIII. If by any such treaty, Her Majesty or the East India Company shall be bound to deliver up to any Foreign Prince or State, any persons liable to be proceeded against by the laws of such Foreign Prince or State, in any case not expressly provided for by this Act, or in any manner other than that provided by this Act, it shall be lawful for the Government of any part of the territories under the Government

of the East India Company, in which such person may be found, upon requisition made by or on the part of such Foreign Prince or State, to adopt such proceedings for carrying such treaty into effect, and for the surrender of such person, and for making any preliminary inquiry into the charge contained in the requisition, as it shall think fit, and any such order of the Government in writing under the hand of one of the Secretaries of such Government, shall be a sufficient authority and justification for all acts to be done in execution thereof.

Part of B C. Reg. XI 1827 repealed.

XXIV. Sections V., VI. and VII., Regulation XI. of 1827 of the Bombay Code, are repealed.

Interpretation of expressions.

XXV. Unless where a contrary intention appears from the context, the word "Government," as used in this Act, shall be deemed to mean and include the Governor General of India in Council or the person or persons administering the executive Government, in any Presidency or place within the British territories in India. The words "British territories in India" shall include any part of the territories under the Government of the East India Company. The word "Magistrate," as used in this Act, is intended to include a Joint Magistrate, or any person lawfully exercising the powers of a Magistrate, and also a Justice of the Peace. Words in the singular number are intended to include the plural, and words in the masculine gender to include the feminine.

ACT No. VIII. OF 1854.

Passed on the 17th of February 1854.

An Act to explain and amend Act X. of 1851 and Act XX. of 1841.

Preamble.

Whereas doubts exist as to the limits within which certificates of administration to personal estates granted in pursuance of Section IV. Act X. of 1851, by the British representative accredited to a foreign State or by the British Officer holding the highest executive authority in a district to which Act XX. of 1841 does not extend are operative, and it is expedient to remove such doubts and also to amend the provisions of the said Acts; It is enacted as follows.

Effect of certificate granted under Act X of 1851.

I. Every such certificate of adminstration as aforesaid, which shall hereafter be granted, shall, as regards the public securities of the East India Company, give authority to the person to whom the same shall be granted

throughout the territories in the possession and under the Government of the East India Company, and have the same effect throughout the said territories as a certificate granted under the provisions of Act XX. of 1841, as amended by Act X. of 1851, has within the Presidency within which the same is granted.

Government notes &c. not negotiable by holder of certificate unless notified thereon.

II. No certificate granted under the provisions of Act XX. of 1841, as amended by Act X. of 1851, or under the provisions of Act X. of 1851, shall empower the person certified to negotiate any Government note or share of a Bank or any share of such security, or to receive any interest or dividend due thereon, or any share of such interest or dividend, unless the Government note or Bank share shall be specified in such certificate.

Extension of certificates and their effect.

III. Any Judge, British representative or other British Officer authorized to grant a certificate may from time to time extend the same to any Government note or Bank share not originally specified therein, and every such extension shall have the same effect as if the Government note or Bank share to which the certificate shall be extended had been originally specified therein.

Security may be required.

IV. Upon the extension of a certificate, security may be required in the same manner as upon the original grant of a certificate.

ACT No. IX. OF 1854.

Passed on the 17th of February 1854.

An Act relating to Appeals in the Civil Courts of the East India Company.

Whereas every case in appeal ought to be determined upon the merits without regard to technical errors or defects; It is enacted as follows:

Decisions of Civil Courts not reversible unless productive of injury to either party.

No order or decision of any of the Civil Courts of the East India Company shall be reversed, altered or remanded on account of any error, defect or irregularity not productive of injury to either party.

ACT No. XI. OF 1854.

Passed on the 3rd of March 1854.

An Act to amend Act No. XXI. of 1835 and Act No. XXII. of 1844, and to authorize the issue of Half Pice.

Whereas it has been deemed expedient, with reference to the convenience of the public, that Copper Coins to be called Half Pice should be issued; It is enacted as follows:

Certain Acts partially repealed.

I. So much of Section I., Act No. XXI. of 1835, as enacts that the Copper Coins therein mentioned only shall be issued from any mint in the Presidency of Bengal, and so much of Section I., Act No. XXII. of 1844 as enacts that the Copper Coins therein mentioned only shall be issued from any mint within the territories of the East India Company, are repealed.

Issue of half pice.

II. After the passing of this Act, Copper Coins to be called Half Pice may be issued from any of the mints in the territories under the Government of the East India Company.

Weight thereof &c.

III. A Half Pice shall weigh fifty grains troy, and shall be a legal tender in any part of the said territories for $\frac{1}{128}$ part of the Company's Rupee, but shall not be a legal tender except for fractions of a Rupee.

ACT No. XII. OF 1854.

Passed on the 10th of March 1854.

An Act for conferring Criminal Jurisdiction upon District Moonsiffs in the Presidency of Madras.

Whereas the administration of justice in the Presidency of Madras will be promoted by vesting District Moonsiffs with jurisdiction in criminal cases; It is enacted as follows:—

Government may confer certain criminal jurisdiction on District Moonsiffs.

I. It shall be competent to the Governor in Council of Fort St. George by an order in writing, to empower one or more of the District Moonsiffs, in any Zillah of the said Presidency, to hear and determine complaints or prosecutions for petty offences and for petty thefts as defined in Sections XXXII. and XXXIII. of Regulation IX. of 1816, and for petty offences of the description specified in Clause 1. Section VIII, Regulation XIII. of 1832, and to inflict upon the offenders the

punishments which Magistrates are authorized to inflict for the same offences by the said Sections of Regulation IX. of 1816, and by Clause 2, Section VIII. Regulation XIII. of 1832.

Existing rules to be in force in bringing up cases.

II. In bringing criminal cases before a District Moonsiff for trial under this Act, the District Police shall be subject to the same laws and rules as are now applicable to them in bringing similar cases before a Magistrate.

Prisoners to remain in custody of Police.

III. Prisoners under trial by the District Moonsiffs under the provisions of this Act shall remain in the custody of the Police.

Existing rules of procedure to apply.

IV. All laws and rules now in force relating to the mode of procedure in such criminal cases in the Courts of the Magistrates, shall also apply to and regulate the mode of procedure in such criminal cases in the Courts of the District Moonsiffs.

Except that complaint &c. be taken in writing.

V. Provided always, that in trials or investigations under this Act, the District Moonsiffs shall take down the complaint and defence as well as the oral evidence fully in writing, and shall receive all relevant and material documentary evidence, properly tendered, and file the same or a copy thereof, or such parts thereof as may be relevant.

Powers of Sessions Judges extended to proceedings &c. under this Act.

VI. The powers vested in Sessions Judges by Section XXXVII., Act VII. of 1843, and the Regulations therein referred to, to review, alter and over-rule the proceedings, orders and judgments passed by Sudr Ameens in criminal cases, shall extend to the proceedings, orders and judgments passed by the District Moonsiffs under this Act.

Provisions of certain Laws may be suspended when an appointment is made under this Act.

VII. It shall be competent to the Governor in Council, when he shall empower one or more of the District Moonsiffs in any Zillah to exercise criminal jurisdiction under this Act to order at the same time that the provisions of Clauses 2, 3 and 4, Section IV., (a) Regulation IV. of 1821, and of Act XXXIII. of

(a) MEMORANDUM.—An error having occurred in Section VII. of Act No. XII. of 1854, wherein Section *VI* of Regulation IV of 1821 has been quoted instead of Section *IV* of that Regulation, it is requested that the necessary correction may be made in the copy furnished for the use of your Office.

Fort St. George,
12th June, 1850.

T. PYCROFT,
Secretary to Govt.

1837, shall cease to have any operation in that Zillah, or in the parts of it in which such criminal jurisdiction is to be exercised by a District Moonsiff.

ACT No. XIII. OF 1854.

Passed on the 7th of April 1854.

An Act to repeal Act No. VI. of 1852, *and to make provision for defraying the cost of the Light-House on Pedra Branca, and for maintaining the same, and also a Floating Light established in the Straits of Malacca, to the West of Singapore, and for the establishment and maintenance of such further Lights in or near to the said Straits as may be deemed expedient.*

Preamble.

Whereas it was deemed desirable, for the safety and guidance of Ships navigating the China Seas, to build a Light-House on the Island Rock called Pedra Branca, situated at the Eastern entrance of the Straits of Singapore; and whereas certain sums of money were subscribed by private individuals for that purpose, but the same were insufficient to defray the expense of building such Light-House; and whereas the East India Company agreed to build such Light-House, and to advance certain sums of money to complete the same, on condition that the said sums of money should be repaid to them by the levy of certain tolls; and whereas, since the passing of Act No. VI. 1852, a Floating Light has been established by the East India Company in the Straits of Malacca to the West of Singapore, at a place called the 2½-fathom bank, and it may hereafter be deemed expedient to establish and maintain other lights or beacons in or near to the said Straits, for the safety and guidance of Ships navigating the same; and whereas many Ships which derive the benefit of the Horsburgh Light and the said Floating Light established as aforesaid, do not contribute to the expense thereof, and it is just and reasonable that they should be liable so to do; It is enacted as follows:

Act VI. 1852 *repealed.*

I. Act No. VI. 1852 is hereby repealed, except so far as it relates to any act already done under the same, or to any toll now due under the provisions thereof, or to any proceedings already adopted, or hereafter to be adopted, for the recovery of any such toll.

Horsburgh light-house to be the property of E. I. C.

II. The Light-House on Pedra Branca aforesaid shall continue to be called "The Horsburgh Light-House," and the said Light-House, and the appurtenances thereunto belonging or occupied for the purposes thereof and all the

fixtures, apparatus and furniture belonging thereto, shall remain the property of, and be absolutely vested in, the East India Company and their successors.

What shall be called "The Straits' Lights."

III. The light maintained at the Horsburgh Light-House, and the said Floating Light established as aforesaid, and such other light or lights as shall be established by the East India Company in lieu of such Floating Light, or in addition thereto, in or near to the Straits of Malacca or Singapore, shall be called "The Straits' Lights."

Ships passing these lights to pay tolls specified.

IV. If, after the passing of this Act, any Ship, of the burden of fifty tons or upwards shall depart from or enter any port, harbour or roadstead in the possession or under the Government of the East India Company, upon, or during, or at the termination of any voyage, in the ordinary course of which she would pass any of the said lights a toll shall be paid in respect of such Ship, except in the cases hereinafter mentioned at the rates following, that is to say—

1. If the voyage be one in the ordinary course whereof such Ship would pass the whole of the said lights, at the rate of one anna for every ton of her burden.

2. If the voyage be one in the ordinary course of which she would pass any one or more of the said lights, but not all of them, at the rate of half an anna for every ton of her burden. Provided that such toll shall not be payable at any such port or place, if such toll shall have been paid at the same or any other port or place under the Government of the East India Company in respect of the same voyage, and a proper voucher for such payment shall be produced, or other satisfactory proof of such payment given. Provided also that no toll shall be payable under this Act on account of any Ship in respect of any voyage for which toll hath been already paid, or become payable under the said Act No. VI. 1852, or during the period covered by such payment.

Return of Ship to be deemed distinct voyage.

V. The return of a Ship from any port or place shall be deemed a distinct voyage within the meaning of this Act, notwithstanding toll shall have been paid in respect of her voyage to such port or place, and notwithstanding the terms of any Charter party.

VI. All Ships of War, belonging to Her Majesty, or to any Foreign

E. I. C. Ships &c. exempt from toll.

Government or State, and all Ships belonging to the East India Company, shall be exempt from the payment of such toll.

"Straits' traders" to pay only half toll.

VII. And whereas there are certain Vessels of small burden, called Straits' traders, which are engaged in the trade carried on between different ports and places, within or near to the said Straits, and it is just and reasonable, that such Vessels should not be charged full toll in respect of any voyage in the course of such trade; It is therefore enacted, that in respect of any voyage which shall be made by any such Vessel in the course of such trade, toll shall be paid at only one-half of the rate at which it shall be payable in other cases under this Act.

Straits' Settlements Governor to have control of the Lights.

VIII. The management and control of the said "Horsburgh Light-House," and of the said Straits' Lights, are hereby vested in the Governor of the Straits' Settlements.

Governor may appoint Collector of tolls.

IX. The said Governor may appoint any person he may think fit, to be a collector of the tolls payable under this Act, at any port, harbour, or place under his Government.

How toll funds shall be applied

X. The Funds raised by the tolls payable under this Act shall be applicable in the first place to defray the necessary expenses of maintaining and keeping up the said Light-House and the said Straits' Lights, and the establishment and maintenance of such other lights as aforesaid, as the Governor General of India in Council may think fit to establish and maintain, and all necessary expenses incidental thereto, and the surplus thereof shall, from time to time, be applied in liquidation of the moneys advanced by the East India Company towards the erection and completion of the said Light-House, and the apparatus and furniture thereof.

When toll becomes due.

XI. The toll to be levied under this Act shall become due and be payable in respect of any Ship clearing out or departing from any port, harbour or roadstead, in the possession or under the Government of the East India Company, upon any such voyage as aforesaid, previously to the granting of any Port-Clearance for such Ship, or, in the event of her not requiring a Port-Clearance, on her preparing to leave such port, harbour or roadstead on such voyage; and in respect of any Ship entering any such port,

harbour or roadstead as aforesaid, upon or during, or at the termination of any such voyage from any port or place not under the Government of the East India Company, the toll shall be payable immediately upon her entering such port, harbour or roadstead.

Receipt as specified to be granted on payment of toll.

XII. The Collector or other Chief Officer of Customs at any port, harbour or place in the possession, or under the Government of the East India Company, or any other Officer, whom the Government to which such port, harbour or place is subordinate, may appoint to receive the tolls above mentioned, shall collect the same by himself, or by any Officer in his establishment whom he shall appoint. The Officer to whom any such toll shall be paid, shall grant to the person paying the same a proper voucher in writing, under his hand, describing the name of his office, and the port or place at which such payment shall be made, the name, tonnage and other proper description of the Ship, and the voyage in respect of which such toll shall be paid.

Port-Clearance not to be granted until toll is paid.

XIII. The Officer of Government, whose duty it shall be to grant a Port-Clearance for any Ship clearing out of, or leaving any such port, harbour or place under the Government of the East India Company, shall not grant such Port-Clearance to any Ship until the Owner or Agent of such Ship, or the Master or other person in command thereof, shall pay all tolls to which such Ship shall be liable under this Act, or produce a proper voucher for, or give satisfactory proof of the payment of such tolls at the same or some other port or place. If any Master or Owner, or other person having the charge of any Ship liable to the payment of any tolls under this Act, shall refuse or neglect to pay the amount thereof to the person authorized to collect, or receive the same, such person may distrain or cause to be distrained, any goods, or merchandize, to whomsoever the same may belong, on board such Ship, and any tackle, apparel or furniture belonging to such Ship, and may remove the same, or cause the same to be removed to some convenient place, leaving on board such Ship, notice in writing, of such distress and of the cause thereof, and of the place of removal. If such tolls, together with the costs of such distress and removal, shall not be paid within three whole days after the seizure, exclusive of the day of such seizure, the person authorized to collect or receive such tolls may cause the goods, merchandize, tackle, apparel and furniture so seized, to be sold, and out of the proceeds of such sale shall pay the amount of the

Goods on ship may be distrained or sold in default.

tolls to which such Ship may be liable under this Act, together with the reasonable costs of such seizure, detention, and sale, rendering to the Master or Owner, or other person having the command of such Vessel, the overplus, if any, on demand.

Toll may be sued for by Collector.

XIV. Notwithstanding any thing in this Act contained, the person authorized to collect the said tolls at any such port, harbour or place as aforesaid, may, in his own name, sue for and recover, on behalf of the East India Company, the amount of any tolls payable to him under this Act, by action in any of the Civil Courts of Her Majesty, or of the East India Company against the Owner or Master, or other person, who, at the time of such toll becoming due, shall have the command of any Ship liable thereto.

How burden of Ship may be ascertained.

XV. In order to ascertain the burden of any Ship liable to pay toll under this Act, the person authorized to collect such toll may require the Owner, Master or other person in command of such Ship, or any person having possession of the same, to produce the register of such Ship for the inspection of such person, if the Ship shall be a British registered Ship or a Ship registered in any part of the territories of the East India Company, and upon the refusal or neglect of any such Owner, Master or other person to produce such register, or if such Ship shall not be a Ship registered as aforesaid, upon the refusal or neglect of such Owner or Master to satisfy the person authorized to collect such tolls as to what is the true burden of the Ship, it shall be lawful for such person to cause such ship to be measured at the expense of the Master thereof, and such expense shall be receivable in the same manner as tolls payable under this Act, or it shall be lawful for such person to deliver to such Master, Owner or other person in command of the Ship, or in the possession thereof, or to leave for him on board such Ship a notice in writing, specifying what, in his judgment, is the burden of the Ship, and the burden specified in such notice shall be deemed to be the real burden of the Ship and be treated as such for all the purposes of this Act, until the Owner, Master or other person having the command of the Ship shall give sufficient proof of the true burden thereof.

Punishment for refusing to give information respecting intended voyage, &c.

XVI. The master of any Ship which shall depart from or enter any such port, harbour or road-stead as aforesaid, upon, or in the course of, or at the termination of any voyage, shall, upon demand by any person authorized to collect or receive tolls under this Act, specify

upon what voyage he is bound, and if any Master of any such Ship, shall refuse or neglect so to do, or shall give a false statement, or shall endeavour to evade the payment of any tolls payable under this Act, or shall obstruct any Officer of Government in the discharge of his duty under this Act, he shall be punishable by a Magistrate in a summary manner by a fine not exceeding two hundred rupees.

Disputes respecting toll &c. to be decided by magistrate.

XVII. If any dispute shall arise respecting the liability of any Ship, to the payment of toll under this Act, or in respect of the burden of any Ship, or the amount of toll payable, or the amount of any charges on account of any distress, removal or sale under this Act; such dispute shall be heard and determinated by a Magistrate in a summary manner, and the decision of such Magistrate shall be final.

Rates may be altered by Governor General in Council.

XVIII. The Governor General of India in Council may, from time to time, as he may think fit, reduce the tolls payable under this Act, in respect of all vessels, or of any particular class or classes of vessels, and again raise the same to any amount not exceeding the amounts above specified.

Interpretation of words.

XIX. The word "Ship" throughout this Act shall be held to mean and include a Schooner, Cutter, Brig, Brigantine, Barque, Steam-vessel and any square-rigged Vessel. The word "Master" shall mean any person having the Command of a Ship. The word "Magistrate" shall be deemed to include a Joint Magistrate and any person lawfully exercising the powers of a Magistrate, and a Justice of the Peace.

ACT No. XVII. OF 1854.

Passed on the 12th of August, 1854.

An Act for the management of the Post Office, for the regulation of the duties of Postage, and for the punishment of offences against the Post Office.

Repeal of former Acts.

I. Act No. XVII. of 1837, Act No. XX. of 1838, and Act No. XVII. of 1839 are hereby repealed, except so far as they repeal the whole, or any part of any other Act or Regulation, and except as to any act or offence which shall have been done or committed, or to any money which shall have become due, or to any fine or penalty which shall have been incurred, or to any

proceedings which shall have been commenced, before this Act shall come into operation.

Exclusive privilege of carrying letters vested in the East India Company.

II. Wheresoever, within the territories under the Government of the East India Company, posts or post communications are, or shall be established by the East India Company, the said East India Company shall have the exclusive privilege of conveying by post, from one place to another, all letters other than letters conveyed by Her Majesty's mails, except in the following cases, and shall also have the exclusive privilege of performing all the incidental services of receiving, collecting, sending, dispatching, and delivering all letters, except in the following cases, that is to say:

1. Letters sent by a private friend in his way, journey, or travel, so as such letters be delivered by such friend to the person to whom they shall be directed, without hire, reward, or other profit or advantage for receiving, carrying, or delivering the same.

2. Letters solely concerning the affairs of the sender or receiver thereof, sent by a messenger on purpose.

3. Letters solely concerning goods or other property sent either by sea or land, to be delivered with the goods or property which such letters concern, without hire, reward, or other profit or advantage, for receiving carrying, or delivering such letters.

But nothing herein contained shall authorize any person to make a collection of such excepted letters for the purpose of sending them in the manner hereby authorized.

Prohibitions.

III. Wheresoever, within the said territories, posts or post communications are, or shall be established by the East India Company, the following persons are expressly forbidden to collect, carry, or deliver any letter or letters, or to receive any letter for the purpose of carrying or delivering the same, although they shall not receive hire or reward for so doing, that is to say:

1. Common carriers of passengers or goods, and their drivers, servants, or agents; except letters solely concerning goods in their carriages.

2. Owners and Commanders of ships, steam boats, or other vessels passing on any river or canal, or to or from any port in the territories under the Government of the East India Company, and their servants or agents; except letters solely concerning goods on board.

Penalties for breach of privilege.

IV. Every person who shall convey otherwise than by the post a letter not excepted from the said exclusive privilege shall, for every letter so conveyed, forfeit a sum not exceeding fifty rupees; and every person who shall be in the practice of so conveying letters not so excepted shall, for every week during which the practice shall be continued, forfeit a further sum not exceeding five hundred rupees; and every person who shall perform otherwise than by the post any services incidental to conveying letters from place to place, whether by receiving, taking up, ordering, collecting, carrying, or delivering a letter or letters not excepted from the said exclusive privilege, shall forfeit for every such letter a sum not exceeding fifty rupees; and every person who shall be in the practice of so performing any such incidental services shall, for every week during which the practice shall be continued, forfeit a further sum not exceeding five hundred rupees; and every person who shall send a letter not excepted from the said exclusive privilege otherwise than by the post, or shall either tender or deliver a letter not so excepted in order to be sent otherwise than by the post, shall forfeit for every such letter a sum not exceeding fifty rupees; and every person who shall be in the practice of committing any of the acts last mentioned shall, for every week during which the practice shall be continued, forfeit a further sum not exceeding five hundred rupees; and every person who shall make a collection of excepted letters for the purpose of sending them otherwise than by the post shall forfeit for every such letter a sum not exceeding fifty rupees; and every person who shall be in the practice of making a collection of excepted letters for such purpose shall forfeit, for every week during which the practice shall continue, a further sum not exceeding five hundred rupees. Every person who shall carry, receive, or deliver a letter, or collect letters contrary to the provisions of Section III. of this Act, shall forfeit for every such letter a sum not exceeding fifty rupees; and every person who shall be in the practice of committing any of the acts last mentioned shall, for every week during which the practice shall be continued, forfeit a further sum not exceeding five hundred rupees.

Appointment of Officers.

V. For carrying on the service of the Post Office, it shall be lawful for the Governor General of India in Council to appoint, or to authorize the local Governments to appoint, such Officer or Officers, with such official styles or designations, and to vest them with, and delegate to them such powers not inconsistent with the provisions of this Act, as the said Governor General of India in Council may deem expedient.

VI. Wheresoever post communications are, or shall be established

Postage rates on letters.

by the East India Company, postage, if pre-paid by a stamp or stamps, as hereinafter provided, shall be charged by weight on letters transmitted by the letter post by sea or land, or partly by sea and partly by land, according to the following scale:

On every letter not exceeding a quarter of a tolah in weight, six pies.

On every letter exceeding a quarter of a tolah, and not exceeding half a tolah in weight, one anna.

On every letter exceeding half a tolah, but not exceeding one tolah in weight, two annas.

On every letter exceeding one tolah, and not exceeding one tolah and a half in weight, three annas.

On every letter exceeding one tolah and a half, and not exceeding two tolahs in weight, four annas.

And for every tolah in weight above two tolahs, two additional annas; and every fraction of a tolah above two tolahs shall be charged as one additional tolah.

Every packet or other article transmitted by the letter post shall be deemed a letter within the meaning of this Section, unless it be a packet or other article on which a different rate of postage shall be chargeable under this Act.

The rates of postage specified in this and the following Section may be charged on all letters or other articles which shall pass through any Post Office, provided that such postage shall not be charged on letters or other articles received through Her Majesty's Mails, when such letters or articles are delivered at the place of receipts; nor on any letter or article transmitted by Her Majesty's Mails, when posted at the place of dispatch of such Mails; nor on any newspaper received by sea otherwise than through the East India Company's post and delivered at the place of receipt; nor on any newspaper posted for dispatch by sea otherwise than through the East India Company's post, when posted at the place of dispatch.

Postage rate on newspapers, &c.

VII. Wheresoever posts or post communications are, or shall be established by the East India Company, postage on newspapers, pamphlets, and other printed or engraved papers transmitted by the letter post by sea or

land, or partly by sea and partly by land, shall be charged by weight according to the following scale:

I. On every imported newspaper, pamphlet, or other printed or engraved paper—

If the same shall not exceed six tolahs in weight, two [*one*] annas.

If the same exceed six, but shall not exceed twelve tolahs in weight, four [*two**] annas.

If the same shall exceed twelve tolahs in weight, there shall be charged and taken two [*one**] additional annas for every six tolahs in weight above twelve tolahs; and every fraction of six tolahs above twelve tolahs shall be charged as six additional tolahs.

2. On every newspaper, pamphlet, or other printed or engraved paper not imported—.

If the same shall not exceed three and a half tolahs in weight, two [*one**] annas.

If the same shall exceed three and a half tolahs, and not exceed six tolahs in weight, four [*two**] annas.

If the same shall exceed six tolahs in weight, there shall be charged and taken two [*one**] additional annas for every three tolahs in weight above six tolahs; and every fraction of three tolahs above six tolahs in weight shall be charged as three additional tolahs.

An extra or supplement to any newspaper, bearing the same date as the newspaper and transmitted therewith under the same cover, shall be deemed part of the newspaper.

Nothing contained in this Act shall be construed to oblige any person to send any newspaper, pamphlet, or other printed or engraved paper through the post office, but it shall be lawful for all persons to send the same in any other manner.

Newspapers, &c., how to be sent by post.

VIII. A newspaper, pamphlet, or other printed or engraved paper shall not be sent by the letter post at the rates prescribed in the preceding Section, unless the following conditions be observed, that is to say:

1. It shall be without a cover, or in a short cover open at both ends.

2. There shall be no word printed on such newspaper, pamphlet, or other printed or engraved paper after its publication, or upon the

* The rate has been altered to this figure by a Notification in the *Fort St. George Gazette*, 31st October, 1854.

cover thereof, nor any writing or mark upon it or upon the cover of it, except the name and address of the person to whom it is sent, and the name and address of the sender.

3. There shall be no paper or thing enclosed in or with any such newspaper, pamphlet, or other printed or engraved paper.

When to be charged with letter postage.

IX. Any newspaper, pamphlet, or other printed or engraved paper sent by the letter post, in respect of which the above conditions shall not be observed, shall, together with any thing enclosed in or with the same, be charged with postage at the rate which would be charged on an unstamped letter of equal weight.

Proof sheets.

X. Proof sheets marked as such may be sent by the letter post at the rates prescribed for newspapers, provided the contents be correctly certified on the cover by the signature in full of the sender, otherwise the same shall be charged with postage at the rate which would be charged on an unstamped letter of equal weight.

Inland banghy postage

XI. Inland banghy postage shall be charged by weight and distance, on parcels sent by the banghy post, according to the following scale.

For Distance.		If not exceeding in weight.													
		20 Tolahs.		100 Tolahs.		200 Tolahs.		300 Tolahs.		400 Tolahs.		500 Tolahs.		600 Tolahs.	
	Miles.	Rs.	As.	Rs.	As	Rs.	As.	Rs.	As.	Rs.	As.	Rs.	As.	Rs.	As,
Not exceeding	100	0	2	0	4	0	8	0	12	1	0	1	4	1	8
Not exceeding	300	0	6	0	12	1	8	2	4	3	0	3	12	4	8
Not exceeding	600	0	12	1	8	3	0	4	8	6	0	7	8	9	0
Not exceeding	900	1	2	2	4	4	8	6	12	9	0	11	4	13	8
Not exceeding	1200	1	8	3	0	6	0	9	0	12	0	15	0	18	0
Exceeding ...	1200	1	14	3	12	7	8	11	4	15	0	18	12	22	8

Provided that several letters shall not be enclosed in a banghy parcel under a penalty not exceeding fifty rupees, and letter postage shall be chargeable on every letter contained therein.

Books, pamphlets, &c.

XII. Books, pamphlets, packets of newspapers, and of printed or engraved papers other than newspapers, provided they do not exceed one hundred and twenty tolahs in weight, and be sent without covers or packed in short covers open at both ends, and provided the postage thereon be pre-paid by means of a proper stamp or stamps to be affixed thereon as hereinafter provided, shall, if sent by the banghy post, or by sea as banghy parcels, or partly by the banghy post and partly by sea, be charged with the following rates of postage, without reference to the distance to which they may be carried:

If not exceeding twenty tolahs in weight, one anna.

If exceeding twenty tolahs, but not exceeding forty tolahs in weight, two annas.

And for every twenty tolahs in weight above forty tolahs, there shall be charged and taken one additional anna; and every fraction of twenty tolahs above forty tolahs shall be charged as twenty additional tolahs.

If any such book, pamphlet, or packet exceed one hundred and twenty tolahs, or if the postage chargeable thereon be not pre-paid as aforesaid, it shall be subject to the rate of postage prescribed for banghy parcels in the preceding section of this Act.

Table of distances.

XIII. Banghy postage, when chargeable by distance under Section XI., shall be calculated and charged according to a Polymetrical Table of distances, showing, as accurately as practicable, the distance by the nearest road between every two Post Office Stations in India, which Table shall be prepared by order of the Governor General of India in Council and corrected from time to time as need be. Each Post Master General shall prepare from the aforesaid Polymetrical Table, in the English and Vernacular languages, for the use of every Post Office under his control, a list of all the other Post Offices of India, arranged alphabetically and showing the distance of each of them from the Post Office for the use of which it is made; and such list shall be affixed in some conspicuous place in such Post Office.

Limitation of weight of letters where there is a banghy post.

XIV. Where there is a banghy post established on any line of road, no letter or other article exceeding twelve tolahs in weight shall be conveyed by the letter post on that line of road, except in such cases, and under such restrictions as the Governor General of India in Council may direct; and every letter or other article not exceeding twelve tolahs in weight shall be

conveyed by the letter post, unless expressly directed to be sent by the banghy post.

Where there is no banghy post.

XV. Where there is no banghy post established on any line of road, letters, parcels, and packets exceeding twelve tolahs, and not exceeding forty tolahs in weight, shall be received and transmitted by the letter post. Letters shall be charged according to the scale in Section VI., and newspapers, pamphlets, and other printed or engraved papers according to the scale in Section VII. of this Act, as the case may be; parcels and packets shall be charged with banghy postage according to the scale in Section XI. or Section XII. of this Act, as the case may be, if it be certified in writing on such parcel or packet, under the full signature and address of the sender, that it does not contain, any letter or other written communication, or any newspaper, pamphlet, or other printed or engraved paper. If any such certificate be false, any such thing contained in such certified letter or other article shall be charged with postage according to the rates specified in Section VI. or Section VII. of this Act as if sent separately, and the sender will be subject to the penalty hereinafter provided. Parcels exceeding forty tolahs, and not exceeding six hundred tolahs in weight, shall be transmitted along any such line as banghy parcels; but it shall be in the discretion of the Post Master or Deputy Post Master, to whom such parcels are brought for dispatch, to forward them at such times and in such manner as may be convenient.

Letters and other articles exceeding twelve tolahs, but not exceeding forty tolahs.

Certificate.

Parcels exceeding forty tolahs.

XVI. Whenever the Post Master General of any Presidency shall have notified in the official *Gazette*, that the banghy post is conveyed in the same carriage with the letter post along any line of road, it shall not be lawful to send by the banghy post any letter or written communication of less weight than twelve tolahs, or any packet of newspapers; and every person who shall knowingly send by the banghy post, along any such line of road, any such letter, written communication, or newspaper enclosed in a parcel, shall forfeit for every such offence a sum not exceeding fifty rupees, and postage shall be charged for every such letter, packet, or newspaper, as if sent separately by the letter post.

Where banghy parcels and letter mails are conveyed in the same carriage.

XVII. On all parcels chargeable under Section XI. with banghy postage according to distance when conveyed by land, ship postage shall be charged when they are conveyed by means of the East India Company's post by sea according to the following scale, viz:

Ship postage on parcels.

On every parcel not exceeding one hundred tolahs in weight, eight annas.

And for every hundred tolahs in weight above one hundred tolahs, eight additional annas; and every fraction of one hundred tolahs above one hundred tolahs shall be charged as one hundred additional tolahs; and if such parcel be conveyed by the East India Company's post, partly by banghy and partly by sea, ship postage shall be charged in addition to inland banghy postage.

Limitation of weight and dimensions of parcels.

XVIII. No parcel exceeding six hundred tolahs in weight, or three feet in length, or one foot in breadth, or one foot in depth, or two thousand five hundred and ninety-two cubic inches in bulk, shall be received at any post office for dispatch either by ship or steam-boat, or by banghy post, except in such cases and under such restrictions as the Governor General of India in Council shall direct. On parcels exceeding six hundred tolahs in weight, when so forwarded, there shall be charged and taken an additional single rate of banghy postage according to distance for every hundred tolahs above six hundred tolahs; and every fraction of one hundred tolahs above six hundred tolahs shall be charged as one hundred additional tolahs.

Ship and inland postage on foreign covers must be pre-paid.

XIX. Letters and newspapers posted for dispatch, either by Her Majesty's mails or otherwise to Ceylon, or to any place to which a post communication shall not have been established by the East India Company, upon which the full amount of postage chargeable under this Act has not been pre-paid by a postage stamp or stamps, shall not be dispatched, but shall be dealt with as unclaimed letters are hereinafter directed to be dealt with. No parcel shall be received for dispatch as above to any such place, unless the full amount of postage chargeable thereon shall be pre-paid in money or by a postage stamp or stamps. Provided that nothing in this section shall be construed to require the pre-payment of British postage on letters, parcels, or other article, upon which the pre-payment of such postage has been left optional by Her Majesty's Post Master General.

Postage on letters, &c., not pre-paid.

XX. Subject to any alteration which may be made by virtue of the power hereinafter vested in the Governor General of India in Council, letters posted for dispatch, either by sea or land, to any place to which a post communication is, or shall be established by the East India Company, upon which the postage chargeable under Section VI of this Act has not been pre-paid by a postage stamp or stamps, shall be forwarded to their destination, and

upon every such letter double postage shall be charged on delivery. Newspapers, pamphlets, and other printed and engraved papers so posted, not pre-paid by a postage stamp or stamps, shall be forwarded to their destination, and the postage chargeable on them shall be levied on delivery. but no money shall be received at any post office in pre-payment of postage on any letter, newspaper, pamphlet, or other printed or engraved paper so posted. On parcels so posted, the postage chargeable according to Section XI. or Section XVII. may be pre-paid in money or by a postage stamp or stamps: when not pre-paid, they shall be forwarded to their destination, and the postage thereon shall be levied on delivery.

Governor General in Council may direct pre-payment of postage in all cases.

XXI. It shall be lawful for the Governor General of India in Council at any time to direct that all or any letters, packets, parcels, or other articles, shall not be forwarded by post, unless the postage thereof shall be pre-paid by means of a proper stamp or stamps; or that on all or any letters, packets, parcels, or other articles on which the postage shall not be pre-paid by a stamp or stamps, or otherwise, as the said Governor General in Council shall direct, there shall be charged such higher rates of postage as from time to time may be deemed expedient, not exceeding double the rates of postage hereinbefore specified.

Letters, &c. with insufficient stamps, how charged.

XXII. If any letter be posted, having affixed thereto a postage stamp or stamps, the value of which shall be less than the rate of postage to which such letter would be liable if duly and properly stamped when posted, there shall be charged on such letter a postage of double the amount of the difference between the value of the stamp affixed thereto and the postage to which such letter would be liable as aforesaid if duly and properly stamped when posted. If any parcel, newspaper, pamphlet, or other printed or engraved paper shall be so posted, having affixed thereto any such stamp or stamps, the value of which shall be less than the rate of postage to which the same would be otherwise liable under this Act, there shall be charged thereon a postage equal to the amount of the difference between the value of the stamp or stamps affixed thereto, and the postage to which such parcel, newspaper, pamphlet, or other printed or engraved paper shall be otherwise liable, as aforesaid.

Re-directed letters.

XXIII. On every letter or packet, which shall be re-directed and forwarded by the letter post, from any place to which it shall have been conveyed by the letter post, there shall be charged for the postage thereof from the place at which the same shall be re-directed, in addition to all other postage paid or due thereon, the

rate of postage to which it would be liable, if posted and pre-paid by stamp at the place where it shall be re-directed.

No dangerous substance to be sent by post.

XXIV. No person shall knowingly post, or send, or tender, or deliver in order to be sent by the post, any letter, parcel, or packet containing any explosive or other dangerous material or substance; and any person contravening this prohibition shall forfeit for every such offence a sum not exceeding two hundred rupees.

Governor General of India in Council may alter the rates of postage.

XXV. It shall be lawful for the Governor General of India in Council at any time to authorize the levy of postage at rates different from those prescribed in this Act, provided there be no increase made thereby in any particular of the rates so prescribed, except as provided in Section XXI. of this Act.

Letters and packets once put into the post office cannot be recalled.

XXVI. No person having delivered into any Post Office any letter, parcel, or packet shall be entitled to recall the same; but nothing in this section shall prevent the re-delivery of any such letter, parcel, or packet to the sender thereof, subject to such rules and regulations, if any, as the Governor General of India in Council may direct; but newspapers, pamphlets, or other printed or engraved papers may be so recalled or restored, provided that the person claiming the same shall satisfy the officer in charge of the post office that he was the sender thereof, and provided the amount of postage which would have been due thereon, if the same had been forwarded, be paid.

But newspapers &c. may be restored.

Steam postage.

XXVII. The postage charged on letters and packets by Her Majesty's Post Master General, under the name of Steamer or British packet postage, or by any other denomination, shall, after the rates of such postage have been published in the official *Gazette* of any Presidency, be recovered in the same manner as postage chargeable under this Act.

Postage stamps.

XXVIII. All letters and other articles, having a stamp or stamps affixed thereto, (such stamp or stamps in every case being affixed on the outside and being equal in value to the rate or rates of postage to which such letters or other articles are liable under this Act,) shall, provided the stamp or stamps shall not have been used before, be considered as pre-paid.

How to be provided.

XXIX. The Governor General of India in Council shall cause postage stamps to be provided, denoting such values as the said Governor General of India in Council may direct, and shall give such orders, and make such other regulations relative thereto, as may be deemed expedient.

Postage stamps to be under management of any officer to be appointed.

XXX. Postage stamps provided as aforesaid shall be under the care and management of such officer or officers as the Governor General of India in Council shall direct; and all sums of money realized by the sale of postage stamps shall be carried in the public accounts to the credit of the Post Office.

Vendors of postage stamps to be appointed.

XXXI. The Governor General of India in Council may make rules for the appointment and government of vendors of postage stamps, and thereby direct how and under what terms and conditions postage stamps may be supplied to them for sale; and whether any and what security shall be given by such vendors, and whether any and what remuneration or discount shall be allowed to them, and how and in what manner and at what time or times such vendors shall keep and render their accounts and pay over the proceeds of any sales made by them or re-deliver the stamps entrusted to them.

Vendors to be bound by rules.

XXXII. Government vendors of postage stamps shall be bound by such rules, and in case of any wilful breach thereof, shall be liable to a penalty not exceeding two hundred rupees, in addition to any other proceedings to which they may be liable.

Penalty of vendor refusing to supply stamps.

XXXIII. Any Government vendor of postage stamps, who shall be convicted of refusing or unnecessarily delaying, without reasonable excuse, to furnish postage stamps to any person desiring to purchase the same, and tendering in lawful currency the full value thereof, (the stamp vendor having in his possession for sale sufficient stamps of the description and value required,) shall be subject to a fine not exceeding one hundred rupees.

Penalty of vendor selling stamps for higher price than the value denoted thereby.

XXXIV. Any Government vendor of postage stamps, convicted of taking from a purchaser a higher price than the value denoted on the stamps sold, shall be deemed guilty of extortion, and shall be punished, on conviction, with imprisonment, with or without hard labour, for any term not exceeding six months, or to a fine not exceeding one hundred rupees, and shall also be liable to refund to the purchaser the whole

amount proved to have been taken in excess, which amount may be recovered by such purchaser before a Magistrate in the same manner as any penalty under this Act.

Penalties for forging stamps, &c.

XXXV. Clause 1. If any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, any die, plate, or other instrument used for the purpose of making postage stamps; or if any person shall forge or imitate, or cause to be forged or imitated, any postage stamp; or if any person shall knowingly, and without lawful excuse (the proof of which excuse shall lie on the person accused,) have in his possession any false, forged or counterfeited die, plate, or other instrument resembling, or intended to resemble, either wholly or in part, any die, plate, or instrument used for the purpose aforesaid; or if any person shall stamp or mark any paper or other substance with any such false, forged, or counterfeit die, plate, or instrument as aforesaid; or if any person shall knowingly use, utter, sell, or expose for sale, or shall knowingly and without lawful excuse (the proof of which excuse shall lie on the person accused) have in his possession any paper or other substance having thereon the impression of any such false, forged, or counterfeit die, plate, or other instrument as aforesaid; or having thereon any counterfeit stamp resembling, or intended to resemble, or to be mistaken for a postage stamp, such person so offending, and every person knowingly aiding, abetting, or assisting such person in committing any such offence, shall be punished with imprisonment, with or without hard labor, for a term not exceeding seven years, and shall also be liable to fine.

Forged stamps may be seized;

Clause 2. Any Officer of Police may seize and transmit to the Magistrate any such forged or counterfeit die, plate, or other instrument, or any such forged or counterfeit postage stamp.

And searched for.

Clause.—3. Any Officer of Police having power by law to search for stolen property may, subject to the provisions under which he is empowered to make search, proceed to search houses or other places in which there may be reasonable cause to suspect that there is any such forged or counterfeit article, and shall seize and transmit to the Magistrate any such counterfeit article that may be found therein.

Penalties for evading postage stamp duties.

XXXVI. If any person shall fraudulently remove any postage stamp from any letter or other thing to which such stamp shall have been affixed; or if any person shall knowingly use any such stamp or stamps so fraudulently removed; or if any person shall fradulently erase or remove, from any

such stamp or stamps, any writing or other matter or thing thereon written or impressed, every person so offending shall forfeit a sum not exceeding two hundred rupees for every such offence.

Postage on unpaid letters, &c., to be paid by the receiver

XXXVII The person to whom any letter or other article, the postage of which has not been paid, shall be delivered, shall not be bound to pay the postage if he forthwith return the same unopened, but if he open the same, he shall be bound to pay the postage due thereon. If he forthwith return the same unopened, the sender of the letter or packet shall be bound to pay the postage thereof If any person shall refuse to pay any postage which he is legally bound to pay for any letter or other article, the same may be recovered for the use of the East India Company by any Post Master General, or by any Officer in charge of a Post Office, by order of a Post Master General, in the same manner as a fine may be recovered under this Act, and it shall be lawful for the Officer in charge of any Post Office to withhold from the person so refusing, until such postage be paid, any other letter or packet addressed to that person not being superscribed as on the public service. Provided always, that if a letter or other article shall appear to the satisfaction of the Post Master of the Office of delivery to have been maliciously sent for the purpose of annoying the person to whom it is addressed, the Post Master of the delivery office may remit the postage.

Registered letters.

XXXVIII. Any person posting a letter or other article shall be entitled to require that it shall be registered at the receiving Post Office and that a receipt shall be granted for such registered letter or article, and it shall be lawful for the Governor General in Council to direct, that, in addition to any rates of postage payable under this Act, a fee not exceeding four annas shall be charged on any letter or other article which the sender thereof shall require to be so registered, and such registration fee shall be paid on the letter or other article being delivered at the Post Office.

Expresses.

XXXIX It shall be lawful for the Governor General of India in Council to fix and order any rate of postage to be charged for the conveyance of letters or other articles by express, in addition to or instead of any other rates of postage chargeable on such letters and articles under this Act.

Commanders of inward bound vessels carrying mails, how to proceed

XL. When any vessel arrives by sea at any place within the territories under the Government of the East India Company at which there is a Post Office, the commander of such vessel shall, as speedily as possible, cause every letter and packet on board of such

vessel, which is directed to that place, and not excepted from the exclusive privilege of the Post Office, to be delivered either at the Post Office or to some Officer of the Post Office authorized to receive the same; and if there be on board any letter or packet directed to any other place, and not excepted from the exclusive privilege aforesaid, the said commander shall, as speedily as possible, report the same to the Post Master of the place at which he has arrived, and shall act according to the directions he may receive from such Post Master, and the receipt of such Post Master shall discharge such commander from all responsibility in respect of such letter or packet. Every commander of a vessel who shall wilfully disobey any of the directions contained in this Section, shall be punished with a fine not exceeding one thousand rupees.

Penalty.

XLI. Every person, being either the commander of a vessel inward-bound, or any one on board such vessel, who shall, within the said territories, knowingly have in his possession any letter not excepted from the privilege of the Post Office, after any part of the letters on board the said vessel shall have been sent to the Post Office, shall forfeit for every such letter a sum not exceeding fifty rupees, whether the letter be in the baggage or on the person of the offender or otherwise in his custody; and every such person who shall detain any such letter after demand made for the same by an Officer of the Post Office shall forfeit for every such letter a sum not exceeding one hundred rupees.

Detention of letters on board prohibited.

XLII. For every letter delivered by the commander of any ship in conformity with the directions of Section XL. of this Act, the officer in charge of the Post Office shall pay to the said commander the sum of one anna; and the sum of one anna shall be chargeable as postage on such letter in addition to any other postage chargeable thereon under this Act. Provided that no payment shall be made to the commander of any vessel on account of the delivery of any letter, unless the claim of such commander shall be preferred before the vessel leaves the place at which the letter was delivered, or before the expiration of two months from the date of the arrival of such vessel. Provided also, that nothing contained in Sections XL., XLI. and XLII. of this Act shall extend to any letter or packet conveyed by Her Majesty's mails.

Bounty money.

XLIII. The commander of every vessel leaving any place in the said territories by sea shall receive on board of such vessel every letter and packet which he shall be required so to receive by any officer of the

Commanders of outward bound vessels to receive mails on board.

Post Office, and shall give a receipt for such letter or packet; and every commander of a vessel who shall wilfully disobey any direction contained in this Section shall be punished with a fine not exceeding one thousand rupees.

Unclaimed letters, &c.

XLIV. Clause 1. A list of all letters, packets, and parcels posted and addressed to persons who cannot be found shall be prepared daily in every Post Office and exposed for not less than two weeks in the most conspicuous part of such office; and all such letters, packets, and parcels, which shall have remained three weeks unclaimed in any office, shall, if the sender's name and address are written on the cover, be returned to the posting office to be delivered to the sender free of all charge; all letters, packets, and parcels, of which the sender's name and address cannot be ascertained, unless they be opened, shall, after remaining unclaimed for three weeks as above, be forwarded to the office of the Post Master General of the Presidency.

To be opened, &c.

Clause 2. The Post Master General, or some person duly appointed for the purpose and bound to secrecy, shall immediately open all such letters, packets, or parcels, and if the address of the sender can be discovered, shall enclose them in dead letter covers and return them to the sender. All letters, packets, and parcels, of which neither the person addressed nor the sender can be found, shall, after they have remained unclaimed in the office of the Post Master General for one year, be destroyed.

Money, &c. found therein.

Clause 3. All money found in any unclaimed letter, packet, or parcel shall be paid into the Public Treasury, and all other valuable property found as above shall be sold by the Post Master General of the Presidency, or by some one duly authorized by him for that purpose, and the proceeds of the sale shall be paid into the Public Treasury for the benefit of any person who may have a right thereto, after deducting all sums due from such person for postage.

Refused letters, &c.

XLV. Letters, parcels, or packets rejected unopened by the person to whom they are addressed shall be forthwith sent to the office of the Post Master General of the Presidency, who shall open the letter, parcel, or packet, and take measures to recover the postage from the sender, or shall at his discretion destroy the letter, parcel, or packet; and all money, or other valuable property, which such letter, parcel, or packet may contain shall be disposed of in the manner prescribed in the preceding Section, with respect to such money or property contained in unclaimed letters.

Franking abolished.

XLVI. On and after the passing of this Act, the privilege of sending and receiving letters and packets by the post, free of postage, whether official or otherwise, shall wholly cease; and all letters and packets, to which any such privilege now extends, shall henceforth be charged with the same rates of postage as any other letters sent by the post Provided that letters and packets on the public service, certified to be such by the signature of any public officer, authorized in that behalf by the Governor General of India in Council, shall be forwarded by the post as if they were duly stamped, and the postage due thereon shall be charged to the several public departments, from which such letters or packets are sent, in such manner as the said Governor General of India in Council shall direct.

Letters on the public service duly certified as such, how to be charged.

Penalty for false certificate.

XLVII. Every person who shall, for the purpose of defrauding the post office revenue, wilfully certify, by writing, on any official or other letter or packet delivered at any Post Office for conveyance by post, that which is not true in respect of such letter or packet, or in respect of the whole of its contents, or shall knowingly send or deliver, or attempt to send or deliver for conveyance by post, any letter or packet with any such false certificate thereon, and every person who shall knowingly send, or permit to be sent by post, under color or pretence of an official communication, any letter, paper, writing, or other enclosure of a private nature; and every person who shall aid, abet, or conceal any of the offences in this Section above-mentioned, shall, for every such offence, forfeit a sum not exceeding five hundred rupees.

Letters, &c., suspected to contain contraband articles or writing, in contravention of this Act, how to be dealt with.

XLVIII. If any officer in charge of a Post Office shall suspect that any letter, parcel, or packet, lying for delivery at his office, contains any contraband article, or any article on which duty is owing to Government, or that any letter, parcel, or packet lying for delivery at the Post Office, contains any writing or enclosure in contravention of the provisions of Sections VIII., XV., XVI., or XLVII, of this Act, it shall be lawful for such officer to summon the person to whom the letter, parcel, or packet is directed to attend at the Post Office by himself or agent within forty-eight hours after the arrival thereof at that Post Office, and to open the same in the presence of the person to whom it is directed, or of that person's agent, and if that person shall not so attend by himself or agent, then to open it in the absence of that person. Provided that if the officer in charge be under the rank of a Post Master, he shall call in two respectable

persons as witnesses before he shall open a letter, parcel, or packet in the absence of the person to whom it is addressed. Provided also, that in all cases the opened letter, parcel, or packet shall be subsequently delivered to the person to whom it is addressed, unless it be required, for ulterior proceedings, and that the opening of the same, and the circumstances connected therewith, shall be immediately reported to the Post Master General. It shall also be lawful for any officer in charge of a Post Office to refuse to forward any parcel or packet through the Post Office by sea to any foreign port or to any place not on the continent of India, unless such parcel be accompanied by a Custom House Pass.

Government not responsible for loss.

XLIX. The Government shall not be responsible for any loss or damage which may occur in respect of anything entrusted to the Post Office for conveyance, and no person employed by the Government in the Post Office Department shall be responsible for any such loss or damage, unless that person shall cause such loss or damage negligently, maliciously, or fraudulently.

Penalty for secreting, opening or making away with letters, &c., by persons employed in the Post Office.

L. Whoever being in the employ of the Government in the Post Office Department shall fraudulently secrete; make away with, or appropriate any letter, parcel, or packet which may have been entrusted to him, or anything contained in any such letter, parcel, or packet, or shall mutilate or break open any such letter, parcel, or packet, or any banghy parcel or box, with the intention of fraudulently appropriating any thing therein contained, shall be punished with imprisonment, with or without hard labor, for a term not exceeding seven years, and shall also be liable to fine.

Penalty for detaining mails.

LI. It shall not be lawful for any person, unless acting by express order of the Government, to detain, except for a criminal offence, a post office messenger, whilst carrying the mails, or to detain any carriage or horse upon which the mails are being carried, or on any pretence to open a packet in transit from one post office to another; and every person who shall be guilty of any of the above mentioned offences shall be punished with a fine not exceeding five hundred rupees.

Penalty for retaining letters, &c., delivered by mistake.

LII. Every person who shall fraudulently retain, or wilfully secrete, or make away with, or keep or detain, or, being required to deliver up by an officer of the post office, shall neglect or refuse to deliver up a post

letter or other article which ought to have been delivered to any other person, or a post letter bag containing a letter or other article or packet which shall have been sent by the post, shall be punished, on conviction before a Magistrate, with imprisonment, with or without hard labor, for a term not exceeding two years, and shall also be liable to fine.

Penalty for neglect on the part of persons employed to carry mails.

LIII. Every person employed to convey or deliver any post bag, or any letter, parcel, or packet sent by post, who shall be guilty while so employed of any act of drunkenness, carelessness, or other misconduct, whereby the safety of any such bag or letter, parcel or packet shall be endangered; or who shall loiter or make delay in the conveyance or delivery of any such bag, letter, parcel or packet; or who shall not use proper care and diligence safely to convey or deliver any such bag, letter, parcel, or packet, shall be liable to a fine not exceeding fifty rupees; and any person employed to deliver a letter, parcel, or packet sent by the post, who shall not duly deliver the same, shall, within a reasonable time, not exceeding twenty-four hours, report the fact at the post office where he received such letter, parcel, or packet, and return the same; and if any such person shall wilfully make a false report, he shall be liable to a fine not exceeding fifty rupees.

Penalty for embezzlement by persons employed in the post office.

LIV. Whoever being in the employ of the Government in the Post Office Department, and being entrusted to receive money for postage duty or any other public purpose, shall fraudulently appropriate the same, shall be punished, on conviction before a Magistrate, with imprisonment, with or without hard labour, for a term not exceeding two years, and shall also be liable to fine.

Penalty for fraudulently altering marks on letters, &c., by persons employed in the post office.

LV. Whoever being in such employ as is described in Section LIV. shall fraudulently put any wrong mark on any letter, parcel, or packet, or shall fraudulently alter, remove, or cause to disappear, any mark or stamp which is on any letter or packet, or shall fraudulently use or place with or upon any letter or packet any stamp which shall have been removed from any other letter or cover, or shall aid, abet, or conceal any of the above-named acts, shall be punished, on conviction before a Magistrate, with imprisonment, with or without hard labor, for a term not exceeding two years, and shall also be liable to fine.

LVI. Whoever being in such employ as is described in Section

Penalty for incorrectly preparing documents, or secreting documents by persons employed in the post office

LIV, and being entrusted with the preparing or keeping of any document, shall, with a fraudulent intention, prepare that document incorrectly, or alter that document, or shall aid, abet, or conceal any of the above-named acts, or secrete or destroy that document, shall be punished, on conviction before a Magistrate, with imprisonment, with or without hard labor, for a term not exceeding two years, and shall also be liable to fine.

Penalty for sending letters without charging postage, by persons employed as above

LVII. Whoever being in such employ as is described in Section LIV., shall send by the post, or put into any post bag, any unstamped letter, parcel, or packet, upon which postage has not been paid or charged in the manner prescribed in this Act, intending thereby to defraud the Government of the postage on such letter, parcel, or packet, or shall aid, abet, or conceal any such acts, shall be punished, on conviction before a Magistrate, with imprisonment, with or without hard labor, for a term not exceeding two years, and shall also be liable to fine.

Fines how to be recovered

LVIII. Any person, whether a European British subject or not, who shall be guilty of any offence for which, according to the provisions of this Act, he shall be liable to a fine only, shall be punishable, for such offence, by any Justice of the Peace for any of the Presidency towns of Calcutta, Madras, and Bombay, Magistrate, Joint Magistrate, or person lawfully exercising the powers of Magistrate; and any person hereby made punishable by a Justice of the Peace shall be punishable upon summary conviction.

Conviction to be quashed on merits only. Form of conviction, &c.

LIX. No conviction, order, or judgment of any Justice of the Peace shall be quashed for error of form or procedure, but only on the merits, and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds, but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment, in obedience to any writ of *certiorari*, and if no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Magistrate may refer charge to his Assistant

LX. A Magistrate may refer for trial and decision any charge of an offence hereby made punishable by fine only to any of his Assistants, or to any Deputy Magistrate lawfully appointed to exercise the powers of a

Covenanted Assistant, and in such case every such Assistant or Deputy Magistrate may exercise all the powers vested in a Magistrate, subject to all the rules applicable to criminal cases deputed to such Assistants or Magistrates acting judicially.

Government may authorize assistants and deputy magistrates to exercise certain powers.

LXI. The local Government may give general authority to any such Assistant or Deputy Magistrate to exercise, without reference by a Magistrate, any of the powers which they are hereby rendered competent to exercise upon reference by a Magistrate, subject to appeal to the Magistrate from any conviction by such Assistant or Deputy Magistrate, within one month from the date of the conviction. Provided that a Magistrate may at any time call from any of his Assistants, or from any Deputy Magistrate subordinate to him, any case pending before such Assistant or Deputy Magistrate.

Fines how levied.

LXII. All fines imposed under the authority of this Act, for offences punishable by fine only, by any Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, or by any Assistant to a Magistrate or Deputy Magistrate, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of any of the above-named officers, and in case any such fine shall not be forthwith paid, any such officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless such party shall give security to the satisfaction of such officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress, and such officer may take such security by way of recognizance or otherwise; and if, upon the return of such warrant, it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such officer by the confession of the party or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such officer, by warrant under his hand, may commit the offender to prison, there to be imprisoned only, or to be imprisoned and kept to hard labor, according to the discretion of such officer, for any term not exceeding two calendar months, where the amount of the fine shall not exceed fifty rupees, and for any term not exceeding six calendar months in any other case: the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Imprisonment if no sufficient distress, &c.

Moiety of fines to Informer

LXIII. A share not exceeding one moiety of every fine imposed and recovered under this Act may be awarded to the informer.

No proceedings to be taken without an order

LXIV. No proceedings shall be taken for the recovery of any such fine without an order of Government, or an order in writing of the Director General of the Post Office, or of a Post Master General.

Servants of East India Company committing offences in Foreign States in alliance

LXV. If any servant of the East India Company, who shall be employed by the said Company in the Post Office Department, or shall be appointed a vendor of postage stamps, or entrusted by the said Company or any of the said local Governments with the sale of postage stamps within the dominions of any Foreign Prince or State in alliance with the said Company, in which a post shall be established by the said Company, shall, within the dominions of such Prince or State, commit any act hereby prohibited, or omit to do any act hereby required to be done, by any person similarly employed, appointed or entrusted as aforesaid within the territories under the Government of the said Company, such servant of the said Company shall be guilty of an offence, and, on conviction thereof, shall be punished in the same manner as if such act had been done or omitted within the said last-mentioned territories, and every such person may be tried, convicted, and punished, either by fine or otherwise according to the nature of the offence, by any Court or Officer duly empowered by the Governor General of India in Council to take cognizance of offences committed in such dominions by servants of the East India Company, or by any Court or Magistrate, or other competent Officer, in any part of the territories within the Government of the East India Company, in the same manner as if the offence had been committed in such part of the said territories.

Interpretation

LXVI. The word "Magistrate" in this Act shall include Joint Magistrates and persons lawfully exercising the powers of Magistrates, and the word "fine" shall include a penalty or forfeiture, or a sum of money due upon a forfeited recognizance.

Governor General in Council may frame rules.

LXVII It shall be lawful for the Governor General of India in Council to frame rules for the conduct of the Post Office not inconsistent with this Act, and therein to prescribe the regulations, conditions, and restrictions according to which all letters and other articles shall be posted, forwarded, conveyed, and delivered.

LXVIII. Unless the Governor General of India in Council shall otherwise order, nothing in this Act shall authorize the charge of postage upon printed books, magazines, reviews, or pamphlets (whether British, Colonial, or Foreign) sent through the post from the United Kingdom to any place to which there shall be a post established by the East India Company, or from such place to the United Kingdom, provided the British postage chargeable thereon be pre-paid.

Books, &c., sent by post to or from the United Kingdom.

LXIX. It shall be lawful for the Governor General of India in Council, by an order in Council, to direct that Postage shall not be chargeable under this Act on any letters or other articles to be specified in such order sent through the post from any part of the British Dominions to any place to which there shall be a post established by the East India Company, or from such place to any part of the British Dominions, subject to such conditions, as to the pre-payment of British postage or otherwise, as the Governor General of India in Council may think fit.

Governor General in Council may exempt from postage letters sent to or from the United Kingdom.

LXX. It shall be lawful for the Governor General of India in Council to frame Rules for the management of all or any Zemindaree, Tannah, or other District dawks, and to declare, from time to time, what portions of this Act shall be applicable to such dawks and to persons employed in connection therewith.

District dawks.

LXXI. This Act shall commence and take effect from and after the first day of October 1854.

Commencement of Act.

ACT No. XVIII. OF 1854.

Passed on the 12th of August 1854.

An Act relating to Railways in India.

Whereas it is expedient, that all Railways, which have been, or shall be opened by any Railway Company, under the superintendence and control of the East India Company, for the public conveyance of passengers or goods in any part of the territories in the possession and under the Government of the said Company, should be subject to the same regulations; It is enacted as follows:—

Preamble.

1. No person shall enter any carriage used on any such Railway, for the purpose of travelling therein, without having first paid his fare, and obtained a ticket. Every per-

Fares to be pre-paid.

son desirous of travelling on such Railway shall, upon payment of his fare, be furnished with a ticket, specifying the class of carriage and the distance for which the fare has been paid, and shall, when required, show his ticket to any servant of the said Company, duly authorized to examine the same, and shall deliver up such ticket upon demand, to any of the Company's servants duly authorized to collect tickets. Any person, not producing or delivering up his ticket, as aforesaid, shall be liable to pay the fare from the place whence the train originally started, unless he can prove, that he has travelled a less distance only, in which case he shall be liable to pay the fare only from the place whence he has travelled.

Passenger tickets to be given up on demand.

Penalty.

II. At the intermediate Stations, the fares shall be deemed to be accepted, and the tickets furnished only upon condition that there be room in the train for which the tickets shall be furnished. In case there shall not be room for all the passengers to whom tickets shall have been furnished, those who shall have obtained tickets for the longest distance shall have the preference: and those who shall have obtained tickets for the same distance shall have preference, according to the order in which they shall have received their tickets. Provided, that all Officers and troops of Her Majesty or of the East India Company, on duty, and all other persons on the business of the East India Company, who, by virtue of any contract with the East India Company, shall be entitled to be conveyed on such Railway in preference to, or in priority over the public, shall be entitled to such preference and priority without reference to the distance for which, or the order in which they shall have received their tickets.

At intermediate Stations, fares and tickets to be conditional.

Proviso.

III. Any person who shall defraud or attempt to defraud any such Railway Company, by travelling, or attempting to travel upon such Railway, without having previously paid his fare; or by riding in or upon a carriage of a higher class than that for which he shall have paid his fare; or by continuing his journey in or upon any of the carriages of the Company beyond the place for which he shall have paid his fare, without previously paying the fare for the additional distance, and with intent to avoid payment thereof; or who shall knowingly and wilfully refuse or neglect, on arriving at the point to which he shall have paid his fare, to quit such carriage; or who shall, in any other manner whatever, attempt to evade the payment of his fare, shall be liable to a fine not exceeding fifty rupees for each offence.

Penalty for fraud.

IV. Any passenger, who shall get into or upon or attempt to get into or upon, or shall quit or attempt to quit any carriage upon any such Railway, while such carriage is in motion; or who shall ride or attempt to ride upon any such Railway, on the steps, or any other part of a carriage, except on those parts which are intended for the accommodation of passengers; shall be liable to a fine, not exceeding twenty rupees for each offence.

Fine for entering carriage in motion.

Or riding on the steps.

V. Any person other than the engine-man and fire-man, and assistant fire-man, if any, who, without the special licence of the Superintendent of locomotives, shall ride or attempt to ride upon any locomotive engine or tender upon any such Railway; and any person other than the guard or breaksmen, who, without such licence as aforesaid, shall ride, or attempt to ride upon such Railway, in or upon any luggage-van or goods-waggon, or other vehicle not appropriated to the carriage of passengers, shall be liable to a fine not exceeding twenty rupees for each offence.

Fine for riding on engine, tender or luggage-van.

VI. If any person shall smoke, either on the premises, or in or upon any of the carriages belonging to any such Railway Company, except in places or carriages which may be specially provided for the purpose, he shall be liable to a fine not exceeding twenty rupees for each offence; and if any person persist in infringing this regulation after being warned to desist by any of the servants of the Company, such person, in addition to incurring the liability above-mentioned, may be removed by any of the servants of the Company from any such carriage, and from the premises of the Company, and shall forfeit his fare.

Smoking prohibited.

VII. Any person who shall be in a state of intoxication, or shall commit any nuisance or act of indecency in any Railway carriage, or upon any part of the premises of any such Railway Company; or who shall wilfully and without lawful excuse interfere with the comfort of any passenger on such Railway, shall be liable to a fine not exceeding twenty rupees; and in addition to such liability the offender may be removed by any of the servants of the Company from any such carriage, and also from the premises of the Company, and shall forfeit his fare.

Penalty for intoxication or nuisance.

VIII. If any special carriage, or portion of a carriage, or any private room or apartment, shall be provided by any such Railway Company for the exclusive use of females, any male person who without lawful excuse shall

Penalty for entering private room or carriage.

enter such carriage, or portion of a carriage, or any such room or apartment, knowing the same to be exclusively appropriated as aforesaid, or shall remain therein after having been informed of its exclusive appropriation, shall be liable to a fine not exceeding one hundred rupees, and may be removed therefrom, and also from the premises of the Company by any of the servants of the Company, and shall forfeit his fare.

No liability for Passengers' luggage.

IX. No such Railway Company shall in any case be answerable for loss or injury to any passengers' luggage, unless it shall have been booked and separately paid for.

No liability for loss of gold, silver, &c., unless in case of special engagement.

X. No such Railway Company shall in any case be answerable for loss of, or injury to any gold or silver, coined or uncoined, manufactured, or unmanufactured, or any precious stones, jewelery, watches, clocks or time-pieces of any description, trinkets, Government securities, bills of exchange, promissory notes, Bank-notes, orders or other securities for payment of money, Government stamped paper, postage stamps, maps, writings, title-deeds, paintings, engravings, pictures, plated articles, glass, china, silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials, shawls, lace, or any of them contained in any parcel or package which shall have been delivered to such Railway Company, either to be carried for hire or to accompany the person of any passenger, unless the value and nature of such articles shall have been declared by the person or persons sending or delivering the same and an increased charge for the safe conveyance of the same shall have been accepted by some person specially authorized to enter into such engagements on behalf of the said Railway Company.

Public notice or private contract not to limit liability.

XI. The liability of such Railway Company for loss or injury to any articles or goods to be carried by them other than those specially provided for by this Act, shall not be deemed or construed to be limited or in any wise affected by any public notice given, or any private contract made by them; but such Railway Company shall be answerable for such loss or injury when it shall have been caused by gross negligence or misconduct on the part of their agents or servants.

Remedy for non-payment of the carriage of goods.

XII. If any person shall fail to pay on demand any sum due to any such Railway Company for the conveyance of any goods, it shall be lawful for the Company to detain all or any part of such goods, or if the same shall

have been removed from the premises of the Company, any other goods of such person which shall then be on their premises, or shall thereafter come into their possession; and also to sell by public auction sufficient of such goods, to realize the sum payable as aforesaid and all charges and expenses of such detention and sale, and out of the proceeds of the sale to retain the sum so payable together with the charges and expenses aforesaid, rendering the overplus, if any, of the money arising by such sale, and such of the goods as shall remain unsold, to the person entitled thereto; or the Company may recover any such sum by action at law.

Written account of goods to be given on demand.

XIII. The owner or person having the care of any goods which shall have been carried upon any such Railway, or shall be brought on to the premises of any such Railway Company for the purpose of being carried on their Railway, shall, on demand by any servant of the Company appointed to receive goods to be carried on that part of the Railway on which such goods shall have been carried, or shall be about to be carried, deliver to such servant an exact account in writing signed by him of the number or quantity and description of such goods.

Penalty for false account.

XIV. If any such owner or person as aforesaid, shall wilfully fail to give such account to such servant of the Company; or if he shall wilfully give a false account thereof, he shall, for every such offence, be liable to a fine not exceeding fifty rupees for every ton of goods, or for any parcel exceeding one hundred weight; and to a fine not exceeding twenty rupees for any quantity of goods less than a ton or for any parcel less than one hundred weight.

Carriage of goods of a dangerous nature.

XV. No person shall carry upon any such Railway any dangerous goods; or be entitled to require any such Railway Company to carry upon such Railway, any luggage or goods which, in the judgment of the Company or any of their servants, shall be of a dangerous nature; and if any person shall carry upon such Railway any dangerous goods, or shall deliver to such Railway Company any such goods for the purpose of being carried upon such Railway, without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing of the nature thereof to the book-keeper or other servant of the Company to whom the same shall be delivered for the purpose of being so carried, he shall be liable to a fine not exceeding two hundred rupees for every such offence; and it shall be lawful for any such Company or any of their servants to refuse to carry any luggage or

parcel that they may suspect to contain goods of a dangerous nature, and to require the same to be opened to ascertain the fact previously to carrying the same; and in case any such luggage or parcel shall be received by the Company for the purpose of being carried on the Railway, it shall be lawful for the Company or any of their servants to stop the transit thereof, until they shall be satisfied as to the nature of the contents of the baggage or parcel.

Penalty for obstructing servant in his duty

XVI Any person who shall wilfully obstruct or impede any officer or servant of the Company in the discharge of his duty on such Railway, or any of the works, stations or premises connected therewith, shall be liable to a fine not exceeding fifty rupees.

Penalty for trespass

XVII Any person who shall trespass upon any such Railway, or upon any of the lands, stations, or other premises belonging to the Company, shall be liable to a fine not exceeding twenty rupees, and if any such person shall refuse to leave such Railway or premises on being requested to do so by any officer or servant of the Company, or by any other person on behalf of the Company, he shall be liable to a fine not exceeding fifty rupees, and may be immediately removed from such Railway or premises by such officer, servant, or other person as aforesaid.

Penalty for driving an animal upon or across Railway

XVIII. Any person who shall wilfully ride, lead, or drive upon or across any such Railway, any animal, except in directly crossing the said Railway at any road or place appointed for that purpose, at a time at which he shall be lawfully authorized so to do, shall be liable to a fine not exceeding fifty rupees for each offence.

Precaution if Railway crosses road

XIX. If the Railway cross any public carriage road on a level, the Railway Company shall erect, and at all times maintain good and efficient gates; either across the Railway or across the road on each side of the Railway where the same shall communicate with the road, and shall employ proper persons to open and shut such gates, if such gates be across the road they shall be kept constantly closed, except during the time when horses, cattle, carts, or carriages, passing along the same, shall have to cross the Railway, and the gates shall be of such dimensions and so constructed as when closed to fence in the Railway, and prevent cattle or horses passing along the road from entering upon the Railway. If the gates be across the Railway, they shall be kept closed except when engines or carriages passing along the Railway shall have occasion to

cross the road, and shall be of such dimensions and so constructed as when open to fence in the Railway, and prevent cattle, carriages, or passengers from entering upon the Railway: provided that it shall be lawful for the local Government in any case to order that the gates shall be across the road or across the Railway as the Government may think fit, and in such case the gates shall be erected, maintained, and closed accordingly. If any Railway Company shall wilfully fail to comply with the provision of this Section they shall forfeit a sum not exceeding two hundred rupees for each offence, and any Magistrate or Justice of the Peace may in case any such gates be not erected or maintained, order the Company to erect and maintain the same within a time to be specified in the order, and in case of wilful failure on the part of the Railway Company to comply with such order, they shall be liable to a fine not exceeding two hundred rupees for every day that they shall wilfully fail so to do.

Proviso.

Penalty.

XX. Every such Railway Company shall be bound to erect and maintain good and sufficient fences on each side of their Railway; or, failing therein, shall be liable to a fine not exceeding fifty rupees for every offence; and it shall be lawful for a Magistrate or Justice of the Peace to order the Company to erect or repair any such fence within a time to be specified in the order, and upon failure of the Company to comply with such order, they shall be liable to a fine not exceeding fifty rupees for every day that they fail so to do.

Railway to be fenced. Penalty for not fencing

XXI. The owner of any animal which shall trespass or stray upon any such Railway, or upon any lands belonging to such Railway Company, except for want of the erection or maintenance of any fence or gate which the Company is bound to erect and maintain, shall be liable to a fine not exceeding ten rupees for each animal; and it shall be lawful for the Company, or any of their servants, to take or drive every animal which shall be found so trespassing to the nearest Police Station, there to be detained until the highest amount of fine incurred by such trespass and the expense of feeding and keeping the animal be paid, or until a Magistrate shall otherwise order. A Magistrate may, upon proof of the trespass, cause such animal to be sold by public auction, and the proceeds of the sale, after deducting therefrom such fine or such a sum, not exceeding ten rupees for each animal, as the Magistrate shall award to be paid in lieu of the fine to which the owner is hereby made liable, and such further sum as the Magistrate shall

Liability of owner of animal trespassing.

order to be paid for the expenses of detaining, feeding, and selling such animal, shall be returned to the owner of the animal on demand.

Penalty for injury to carriage, &c.

XXII. Any person who shall unlawfully and wilfully remove or deface the number plates, or remove or extinguish any lamp on any carriage belonging to any such Railway Company; or shall wilfully or negligently damage or injure any carriage, engine, waggon, truck, warehouse, building, machine, fence, or any other matter or thing belonging to such Railway Company, shall be liable to a fine not exceeding fifty rupees.

Penalty for opening or not properly shutting gates.

XXIII. If any person for whose use or accommodation any gate shall have been set up by any such Railway Company on either side of such Railway, or any other person, shall open such gate; or pass, or attempt to pass, or drive, or attempt to drive any carriage, cattle, or other animal or thing across the said Railway at a time when any engine or train approaching along the same shall be in sight; or shall at any time omit to shut and fasten such gate, as soon as he and any carriage, cattle, or other animal or thing under his charge, shall have passed through the same, he shall be liable to a fine not exceeding fifty rupees.

Offender may be apprehended.

XXIV. If any person shall commit any offence hereby made punishable by fine, and the name and address of such person shall be unknown or there be reason to believe that the offender will abscond, any officer or servant of the Company, or any police officer, or other person whom such officer or servant may call to his aid, may, without any warrant or written authority, lawfully apprehend and detain such offender until he can be taken before a Magistrate or other officer having jurisdiction over the offence, or shall give sufficient security for his appearance before such Magistrate or other officer, or shall be otherwise discharged by due course of law.

Penalty for wilful act or omission endangering a passenger.

XXV. Whoever shall wilfully do any act or shall wilfully omit to do what he is legally bound to do, intending by such act or omission to cause, or knowing that he is thereby likely to cause the safety of any person travelling or being upon any such Railway to be endangered, shall be liable to be transported beyond sea for the term of his life, or to be imprisoned, with or without hard labour, for any term not exceeding seven years.

Penalty for wilful act or omission in a Railway officer.

XXVI. If any officer or servant of such Railway Company shall wilfully do any act which he is legally prohibited from doing; or shall wilfully or negligently omit to do what he is legally bound to do, and if, in consequence of such act or omission, the safety of any person travelling or being upon such Railway shall be endangered, such officer or servant shall be liable to be imprisoned, with or without hard labour for any term not exceeding three years, or to fine, or to both.

Penalty for drunkenness or breach of duty by Railway officer.

XXVII. Any officer or servant of such Railway Company who shall be in a state of intoxication, whilst actually employed upon the Railway, or any of the works connected therewith, in the discharge of any duty, and any officer or servant of such Company who shall negligently omit to perform his duty, or shall perform the same in an improper manner, shall be liable to a fine not exceeding fifty rupees; and if the duty in any of the cases in this Section above-mentioned be such, that the omission or negligent performance thereof would be likely to endanger the safety of any person travelling or being upon such Railway, such officer or servant shall, on conviction before a Magistrate, be liable to imprisonment, with or without hard labour, for a term, not exceeding one year, or to fine, or to both.

Penalty for an act not wilful.

XXVIII. If any person shall rashly or negligently and without lawful excuse do any act which shall be likely to endanger the safety of any person travelling or being upon such Railway, he shall, upon conviction before a Magistrate, be liable to imprisonment, with or without hard labour, for a term not exceeding one year, or to fine, or to both.

Rule of construction of this Act.

XXIX. In the construction of this Act, every officer and servant of such Railway Company, shall be deemed to be legally bound to do every thing necessary for, or conducive to the safety of the public which he shall be required to do by any Regulation which shall be made by the Company, and allowed by the Governor General of India in Council, and of which Regulation such officer or servant shall have notice; and every such officer and servant shall be deemed to be legally prohibited from doing every act which shall be likely to cause danger, and which by any such Regulation he shall be prohibited from doing; and every person employed by or on behalf of such Railway Company to do any act upon the Railway, shall be deemed to be a servant of the Company.

Jurisdiction of Magistrate, &c. to fine.

XXX. Any person, whether a European British subject or not, who shall be guilty of any offence, for which, according to the provisions of this Act, he shall be liable to a fine only, shall be punishable for such offence by any Justice of the Peace for any of the Presidency Towns of Calcutta, Madras and Bombay, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, whether the offence shall have been committed within the local limits of the jurisdiction of such officer or not, and any person hereby made punishable by a Justice of the Peace, shall be punishable upon summary conviction.

Conviction to be quashed on merits only—form of conviction, &c.

XXXI. No conviction, order, or judgment of any Justice of the Peace, shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds; but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment, in obedience to any writ of *certiorari*, and if no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Magistrate may refer case to his Assistant or Deputy.

XXXII. A Magistrate may refer for trial and decision any charge of an offence hereby made punishable by fine only to any of his Assistants, or to any Deputy Magistrate lawfully appointed to exercise the powers of a covenanted assistant, and in such case every such Assistant or Deputy Magistrate may exercise all the powers vested in a Magistrate, subject to all the rules applicable to criminal cases deputed to such Assistant or Deputy Magistrate, acting judicially.

Local Government may authorize Assistant, &c.

XXXIII. The local Government may give general authority to any such Assistant or Deputy Magistrate to exercise, without reference by a Magistrate, any of the powers which they are hereby rendered competent to exercise upon reference by a Magistrate, subject to appeal to the Magistrate from any conviction by such Assistant or Deputy Magistrate, within one month from the date of conviction. Provided that a Magistrate may at any time call from any of his Assistants, or from any Deputy Magistrate subordinate to him, any case pending before such Assistant or Deputy Magistrate.

Proviso.

Fines how to be recovered.

XXXIV. All fines imposed under the authority of this Act for offences punishable by fine only by any Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, or by any Assistant to a Magistrate, or Deputy Magistrate, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of the above-named officers; and in case any such fine shall not be forthwith paid, any such officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress, and such officer may take such security by way of recognizance or otherwise; and if upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such officer, by the confession of the offender or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such officer may, by warrant under his hand, commit the offender to prison, there to be imprisoned only, or to be imprisoned and kept to hard labor, according to the discretion of such officer, for any term not exceeding two calendar months when the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Jurisdiction in Madras and Bombay Presidencies.

XXXV. The heads of district police and ameens of police in the Presidency of Madras, and district or joint police officers in the Presidency of Bombay, may punish, to the extent of the powers conferred upon them respectively in petty offences, any offence hereby made punishable by fine not exceeding twenty rupees.

Enforcing payment of fare by passenger not producing ticket.

XXXVI. Payment of any fare to which any passenger not producing or delivering up his ticket shall be liable under Section I. of this Act, may be enforced in the same manner as any fine imposed by this Act.

Apprehension of offenders.

XXXVII. Every person who shall be guilty of any offence mentioned in Sections XXV., XXVI., XXVII. and XXVIII., of this Act, may be lawfully apprehended without any warrant or written authority, by any servant or

officer of the Company, or by any other person whom such officer or servant shall call to his aid, or by any police officer of such grade, as shall, by any law in force for the time being, be entrusted in any case with the power of arrest without a warrant; and every person so apprehended shall, with all convenient despatch, be carried and conveyed before a Magistrate or Justice of the Peace, or other officer lawfully authorized to punish the offender or to commit him for trial.

Construction.

XXXVIII. In the construction of this Act, unless where a contrary intention appears from the context, the word "Magistrate" shall include a Joint Magistrate, and any person lawfully exercising the powers of a Magistrate; words in the singular number shall include the plural, words in the plural shall include the singular; and words in the masculine gender shall include the feminine; and the word "fine" shall include a sum of money due upon a forfeited recognizance.

Acts repealed.

XXXIX. Acts No. III. of 1853 and No. XII. of 1853, are hereby repealed, except as to acts done, offences committed, and liabilities incurred before the passing of this Act.

All Indian Railways to be within the Act.

XL. Every Railway within the said territories used for the public conveyance of passengers or goods shall, until the contrary be proved, be presumed to be a Railway within the meaning of this Act, and every Company to whom any such Railway shall belong, shall, until the contrary be proved, be presumed to be a Railway Company within the meaning of this Act.

Penalty for omitting to report accident.

XLI. Every such Railway Company shall, within forty-eight hours after the occurrence upon the Railway belonging to such Company of any accident attended with serious personal injury, give notice thereof to the local Government; and if any such Company omit to give such notice, they shall forfeit the sum of fifty rupees for every day during which the omission to give the same shall continue.

Local Government may require a return of accidents.

XLII. The local Government may order and direct any such Railway Company to make up and deliver to them a return of serious accidents occurring in the course of the public traffic upon the Railway belonging to such Company, whether attended with personal injury or not, in such form and manner as the Government shall deem necessary and require for their information, with a view to the public safety; and if any

such returns shall not be so delivered within fourteen days after the same shall have been required, every such Company shall forfeit the sum of fifty rupees for every day during which the said Company shall neglect to deliver the same.

Penalty.

XLIII. A copy of this Act, and of the General Regulations, Time Tables, and Tariff of charges which shall from time to time be published by any Railway Company, with the sanction of the local Government, shall be exhibited in some conspicuous place at each Station of every Railway so that they may be easily seen and read; and all such documents shall be so exhibited in English and in the Vernacular language of the district in which the Station is situate, and in such other language, if any, as shall be required by order of the local Government.

Copy and translation of Acts to be shown at Railway Stations

ACT No. XIX OF 1854.

Passed on the 26th of August 1854.

An Act for removing the prohibition against the importation of Foreign Sugar.

WHEREAS by the provisions of a Statute passed in the 12th year of the reign of Her present Majesty, the duties to be levied on the importation of Sugar from different places into the United Kingdom, have been equalized; It is enacted as follow :—

Preamble.

I. Acts XXXII. of 1836, XV. of 1839, XI. of 1842, and so much of Act XIV. of 1843 as prohibits the importation of Sugar into any part of the North Western Provinces of the Presidency of Bengal, are hereby repealed.

Repeal of Acts prohibiting the importation of Sugar into the Bengal, Madras and the North Western Provinces.

ACT No. XXI. OF 1854.

Passed on the 26th of August 1854.

An Act to amend the Law relating to the several Banks of Bengal, Madras, and Bombay.

For the purpose of removing doubts, and of extending the powers of the chartered Banks of Bengal, Madras and Bombay, It is enacted as follows —

Preamble

Secretary, &c. empowered to draw and endorse Bills, &c. and to sign documents for the Banks.

I. The persons for the time being holding the Offices of Secretary and Treasurer or of Secretary alone or of Deputy Secretary of the Bank of Bengal, of the Bank of Madras, or of the Bank of Bombay, are hereby severally empowered, for and on behalf of the Bank under which they hold either of such offices, to endorse and transfer Government Securities standing in the name of the Bank, to draw, accept and endorse Bills of Exchange, Promissory Notes, and Bank Post Bills connected with the current and ordinary business of the Bank, and to sign all other documents connected with such business.

Banks may lend money on shares of guaranteed Railway Companies.

II. It shall be lawful for any of the said Banks to lend money on the security of shares in such of the incorporated Indian Railway Companies as hold a guarantee from the East India Company with regard to interest: provided that no such loan shall in any case exceed in amount three-fourths of the paid up value of the shares, on the security of which the loan is made, and in every case such shares shall be transferred to the Bank by which the loan is made either absolutely, or by way of mortgage.

Proviso.

ACT No. XXII. OF 1854.

Passed on the 23d of September 1854.

An Act to repeal certain parts of the 53 George 3, c. 155, of Section II., Regulation XV. of 1806 of the Bengal Code, and of Regulation IV. of 1809 of the Madras Code.

Preamble.

WHEREAS by Letters Patent dated the 1st day of March 1851, all amerciaments, fines, forfeitures, and penalties belonging to the Crown, were granted to the East India Company, and it is no longer necessary that fines realized by Magistrates, under the provisions of the Statute 53 George 3, c. 155, s. 105. should be remitted to the Clerk of the Crown; and whereas also it is no longer necessary that in all cases in which European British Subjects are concerned, the Magistrates should report their proceedings to the Government; It is enacted as follows:—

Repeals certain parts of Statute 53, George 3, c. 155, s. 105, of

So much of the Act of Parliament 53 George 3, c. 155, s. 105, as requires that in all cases of conviction of a British Subject under the provisions contained in that Section, the Magistrate, before whom such conviction

Section II of Regulation XV. of 1806 of the Bengal Code, and of Regulation IV. of 1809 of the Madras Code.

takes place, shall forthwith transmit copies of such conviction, and of all depositions, and other proceedings relative thereto, to the Government to which the place where the offence was committed is subordinate; and so much of the same Section of the above-mentioned Act as prescribes that any part of any fines shall be transmitted by the Magistrate to the Clerk of the Crown or other Officer to whom it belongs to receive fines in any of Her Majesty's Courts of Oyer and Terminer and Jail Delivery, and that such fines shall be disposed of in the same manner as other fines imposed by such Courts; and so much of Section II. Regulation XV. of 1806 of the Bengal Code and of Section II. Regulation IV. of 1809 of the Madras Code as requires the Magistrate by whom any European British Subject is held to bail or committed to take his trial before Her Majesty's Supreme Court at Calcutta to transmit copies of the original depositions together with translations of any papers not being in the English language to the Secretary to Government, are hereby repealed.

ACT No. XXIII. OF 1854.

Passed on the 28th of October 1854. (*a*)

An Act for the suppression of Outrages in the District of Malabar, in the Presidency of Fort St. George.

Preamble.

Whereas in the District of Malabar, in the Presidency of Fort St. George, murderous outrages have been frequently committed by persons of the class called Moplas against inhabitants of those Districts belonging to other classes, the offenders in such outrages intending therein to sacrifice their own lives; and the general law of the country is not adequate to suppress such outrages. It is enacted as follows:—

Governor in Council empowered to proclaim the whole or any part of Malabar to come under this Act.

I. It shall be lawful for the Governor in Council of Fort St. George, whenever he shall see fit, by a proclamation published in the *Fort St. George Gazette*, (*b*) from time to time to declare the whole or any part or parts of the District of Malabar to be subject to the operation of all or any of the following provisions.

(*a*) A retrospective effect has been given to this Act and its provisions have been extended, by Act V. of 1856, to all murders &c., committed by Moplas.

(*b*) In consequence of the assassination of Mr. Conolly, Collector of Malabar, the provisions of this Act were put in operation by a Proclamation in the *Fort St. George Gazette* dated 18th September 1855.

II. Any Mopla, who murders or attempts to murder any person belonging to any other class, or who takes part in any outrage directed by Moplas against persons of any other class, wherein murder is committed, or is attempted to be committed, or is likely to be committed; and any person who shall procure or promote the commission of any such crime as aforesaid, or shall incite or encourage any other person or persons to commit the same; or who, after having committed, or having been accessary to any such crime as aforesaid, shall forcibly resist any person or persons having lawful authority to apprehend him; or who shall join or assist, or incite or encourage other persons to join or assist in such resistance; shall, on conviction thereof, be liable not only to the punishment provided by the existing law for the offence of which he may be convicted, but also to the forfeiture of all his property, of whatever kind, to Government, by the sentence of the Court by which he is tried; and whenever any person shall be killed in the act of committing any such offence as aforesaid, or being wounded and taken prisoner in the act of committing any such offence as aforesaid, shall afterwards die of his wounds, it shall be competent to the Court which would have had cognizance of the offence, if the offender could have been brought to trial, to proceed on the application of the Magistrate to hold an inquest into the circumstances of the death of the offender; and on proof of his having been killed as aforesaid or of his having died of wounds received as aforesaid, to adjudge that the whole of his property shall be forfeited to Government.

The property of Moplas convicted of outrages to be forfeited.

Also the property of persons killed in committing outrages.

III. If any Mopla shall be sentenced to death for any capital offence, punishable also with forfeiture of property under this Act, it shall be lawful for the Court by which such offender is convicted, by its sentence, to direct the body of such offender to be burned or buried within the precincts of the Jail, as it shall see fit; and in like manner, if any Mopla shall be killed in the act of committing any such offence as aforesaid, or having committed any such offence as aforesaid shall be killed in resisting a lawful attempt to apprehend him; it shall be lawful for the Magistrate to cause the body of the person so killed to be burned or buried within the precincts of the Jail, as the said Magistrate shall see fit.

Bodies of offending Moplas sentenced to death, or killed, may be burned or buried within the precincts of the Jail.

IV. The Governor in Council shall have, with respect to the confinement or trial of any person charged with or suspected of an intention to commit any offence punishable under this Act, the powers which are vested in him by Regulation II. of 1819 of the

Powers of Governor in Council as to the confinement or trial of persons under this Act.

Madras Code and by Act V. of 1841, respectively, regarding the confinement or trial of persons charged with or suspected of State offences and the provisions of the said Regulation and Act, respectively shall be applicable to all cases in which the Governor in Council shall proceed under the authority of this Section.

Magistrate how to act in respect to persons against whom he thinks there are grounds of proceeding.

V. The Magistrate of the District may cause any Mopla or other person, against whom there are in his judgment grounds of proceeding under the last Section, to be apprehended, and after such enquiry as he may think necessary, may detain such Mopla or other person in safe custody until he shall have received the orders of the Governor in Council, to whom in all such cases he shall report his proceedings without unnecessary delay.

Penalty for remaining or returning within forbidden limits.

VI. If with the previous consent of the Governor in Council any person, against whom the Governor in Council shall think fit to proceed under Section IV., shall undertake, in consideration of the suspension of such proceedings, to depart within a specified period from within the limits of the continent of India or of any part thereof, and shall in breach of his said undertaking, and without the permission of the Governor in Council, remain or return within such limits, he shall be liable to be punished with imprisonment, with or without hard labor, for a period which may extend to seven years or with fine, or both.

Levy of compensation or fine.

VII. Whenever any such outrage, as is specified in the 2nd Section of this Act, the same being punishable under this Act, shall have been committed by any Mopla or Moplas, it shall be lawful for the Magistrate, with the sanction of the Governor in Council, to levy such sum of money as the Governor in Council shall authorize from all the Moplas within the umshum or the several umshums to which the perpetrator or perpetrators, or any one of such perpetrators of such outrages, shall be found to belong, or wherein any such perpetrator shall have been resident at the time of the commission of the outrage; and the said Magistrate shall assess the proportions in which the said sum shall be payable upon the several heads of families of Moplas within such umshum or umshums, according to his judgment of their respective means; and the said Magistrate shall appropriate the sum so levied as follows, that is to say, in the first place to the compensation of the parties aggrieved by such outrages, including therein compensation to the family of any person dying by any such outrage for the pecuniary loss occasioned or likely to be occasioned

by such death; and, subject to such compensation, to the use of the Government.

Fines, &c. how to be levied.

Magistrate exempted from action.

VII. All fines and pecuniary liabilities incurred under this Act may be levied by a Magistrate under summary process, in the same manner as the Public Revenue may be realized by a Collector; and no action shall lie in any Civil Court against the Magistrate in respect of any fine imposed, or any assessment made under this Act, or in respect of the levy of any portion of such fine from the person or persons upon whom the same shall have been assessed.

Parts of district may be withdrawn from the operation of the Act and again made subject to it.

IX. It shall be lawful for the Governor in Council, by such proclamation as aforesaid, from time to time, to withdraw from the operation of the provisions of this Act any part or parts of the said districts which he may have declared to be subject thereto; and in like manner, as occasion shall require, to subject the same part or parts again to the operation of such provisions, or of any of them.

ACT No. XXIV. OF 1854.

Passed on the 28th of October 1854.

An Act to prohibit the possession of certain offensive Weapons in Malabar.

Whereas it is expedient to prohibit the possession of certain offensive weapons in the District of Malabar in the Presidency of Fort St. George, It is enacted as follow:—

Use of Ayudha Cutty or any similar weapon prohibited.

Such weapons to be surrendered by a certain date.

I. The use of the Ayudha Cutty or war-knife, or of any similar offensive weapon, is hereby prohibited throughout the district of Malabar; and every person possessing a weapon of the description so designated, or any similar weapon, is required to surrender it, on or before the date which shall be appointed for the above provisions taking effect, and according to such orders as shall be published in that behalf by the Magistrate.

Fine for possessing, purchasing, selling, or manufacturing after date.

II. After such date, any person, who shall be found in possession of an Ayudha Cutty, or war-knife, or of a similar offensive weapon or who shall purchase, or sell, or manufacture, or cause to be manufactured, any Ayudha Cutty or war-knife, or similar weapon, shall be liable, on conviction before a Magistrate, to a fine not exceeding fifty Rupees, or to imprisonment, with or without hard labor, for a period not exceeding

six months, or to both; and the said war-knife or weapon shall be confiscated.

Magistrate may search for prohibited weapons.

III. It shall be lawful for the Magistrate of Malabar to cause search to be made by his Police Officers, acting under his warrant, in any house or other place in which any Ayudha Cutty or war-knife, or any similar offensive weapon, may be supposed to be, contrary to this Act; and any such Ayudha Cutty or war-knife, which shall be found, may be seized and confiscated. It shall also be competent to the Magistrate, at his discretion, to delegate to any of his European Assistants the powers conferred by this Section. Any person, who shall resist or oppose such search or seizure, or forcibly withstand any Police Officer charged with such warrant, shall be liable to the same penalties, as if such person had opposed or resisted the execution of a warrant for the search after stolen goods.

Penalty for resisting search.

ACT No. XXIX OF 1854.

Passed on the 18th of November 1854

An Act to prohibit the Exportation of saltpetre to certain Ports in Europe.

[*This Act has been rendered void by the publication in the official* GAZETTES *of a Notification, dated 16th May 1856, No 811, by order of the Governor General, on the receipt of intelligence that a Treaty of Peace had been concluded between the Allied Powers and the Emperor of Russia on the 30th of March preceding.*]

ACT No XXX. OF 1854.

Passed on the 2nd of December 1854.

An Act to provide for the levy of Duties of Customs in the Arracan, Pegu, Martaban, and Tenasserim Provinces.

Preamble.

Whereas it is expedient that the Arracan, Pegu, Martaban, and Tenasserim Provinces should be placed, as nearly as possible, in the same position with the Provinces of Bengal and Orissa, in respect to the levy of Duties of Sea Customs; that duties of River Customs should be levied on the Northern Frontier

of Pegu; that the floating down of Teak Timber, and the duties payable thereon, in certain of these Provinces, should be regulated by law; and that the exportation of munitions of war from any of these Provinces into Foreign States should be prohibited; It is enacted as follows:

Acts repealed.

I. So much of Act VII. of 1848 as excepts the Ports of Arracan and Tenasserim from the operation of Section III. Act VI. of 1848; and so much of Sections XVIII. XIX. and XXXV. of Act I. of 1852 as relates to the said Ports, are repealed.

Duty on imports by Sea.

II. With the exceptions mentioned in Section III. of this Act, all goods imported by Sea into any part of the Arracan, Pegu, Martaban, and Tenasserim provinces, from any Port not subject to the Government of the East-India Company, or from the Port of Aden, or from any Port in the Straits of Malacca, shall be charged with the same rates of duty as those which are or shall be charged on goods of the same description imported from the same ports into the Provinces of Bengal or Orissa.

Special Duty on Salt imported by Sea.

III. Salt imported by Sea into any part of the Arracan, Pegu, Martaban, and Tenasserim Provinces, shall be charged duty at the rate of eight annas a maund: provided that it shall be, in respect to Arracan, in the power of the Governor or Lieutenant Governor of Bengal, and, in respect to Pegu, Martaban, and Tenasserim, in the power of the Governor General of India in Council, to fix from time to time, upon Salt imported by Sea, any lower rate of duty that may be thought proper, in order to equalize the rate of Customs Duty upon Salt imported by Sea into any of the said Provinces with the rate of Excise Duty on Salt manufactured in the same Province. Opium imported by Sea into any part of the said Provinces shall be charged duty at the rate of twenty-four Rupees a seer, excepting Opium purchased at a Government Sale in Calcutta, which shall be free: provided that no Opium of any description shall be landed in the Provinces aforesaid without a pass from the Collector of Customs at the Port of landing, in default of which, such Opium shall be seized and confiscated.

Special Duty on Opium imported by Sea.

Duty on Exports by Sea.

IV. All goods, except Teak Timber, exported by Sea from any part of the Arracan, Pegu, Martaban, and Tenasserim Provinces, to any Port not subject to the Government of the East India Company, or to the Port of Aden, or to any Port in the

Straits of Malacca, shall be charged with the same rates of duty as those which are or shall be charged upon goods of the same description exported to the same Ports from the Provinces of Bengal and Orissa. Provided that when goods, which have paid River Frontier import duty under Section VI. of this Act, are exported by Sea, under a certificate of the Collector of River Frontier Customs passed by the Collector of Sea Customs, the amount of River Frontier import Duty so paid, shall be accepted in full payment of the Sea Export Duty chargeable under this Section.

Bengal Customs Law to apply.

V. All the laws and rules relating to the levy of duties of Customs, which are or shall be in force in the Provinces of Bengal and Orissa, shall apply to the levy of duties of Sea Customs in the Arracan, Pegu, Martaban, and Tenasserim Provinces: provided that the powers which, in the Provinces of Bengal and Orissa, are or shall be vested in the Governor or Lieutenant-Governor of Bengal, shall be vested, in respect of Pegu, Martaban, and Tenasserim, in the Governor General of India in Council, and that the powers which, in the Provinces of Bengal and Orissa, are or shall be vested in the Board of Revenue, shall, in respect of Pegu and Martaban, be vested in the Commissioners of those Provinces respectively.

River Frontier duty on Imports.

VI. All goods, excepting Bullion and Coin, Precious Stones and Pearls, Cotton Wool, Grain and Pulse, and Living Animals, which shall all be free; and excepting Spirituous Liquors and Teak Timber, for which special rules are provided, imported by the river Irrawaddy or the river Sitang from beyond the northern frontier of Pegu; shall be charged, on passing the Frontier Custom House on the Irrawaddy, or the Frontier Custom House on the Sitang, with a Duty of Customs of ten *per centum ad valorem*. Spirituous Liquors, on passing either of the said Custom Houses, shall be charged import duty at the rate of one Rupee a gallon. Teak Timber, on passing either of the said Custom Houses, shall be charged import duty at such rate as shall be fixed from time to time by the Governor General of India in Council in order to equalize the rate of duty charged on foreign Teak Timber so imported, with the price that may be fixed from time to time for permission to appropriate and remove Teak Timber of the same description growing in the forests of Pegu which are State property.

Special duty on Spirits.

Special duty on Teak

Special Duty on Teak in Martaban and Tenasserim.

VII. Teak Timber floated down any river in the Martaban or Tenasserim Provinces, shall be charged with the same duty as that chargeable for the time being under Section VI. on Teak Timber passing a River Frontier

Custom House, and this duty shall be levied at such places on the said rivers as the Governor General of India in Council shall appoint.

Rules for Teak floated

VIII. It shall be lawful for the Governor General of India in Council, in respect of the Pegu, Martaban, and Tenasserim Provinces, to promulgate such rules for the time and manner of the floating of Teak Timber within the said Provinces respectively, as may to him seem fit; and to prescribe what descriptions of Teak Timber may lawfully be floated, and what descriptions of Teak Timber may not lawfully be floated, within the said Provinces respectively. And all Teak Timber found floating contrary to such rules or orders, shall be confiscated.

River Frontier Duty on Exports

IX Goods of the descriptions specified in the Schedule annexed to this Act, exported beyond the northern frontier of Pegu by the river Irrawaddy, or the river Sitang, shall be charged export duty on passing the Frontier Custom House on the Irrawaddy, or the Frontier Custom House on the Sitang, according to the rates fixed in the said Schedule, and the said Schedule shall be taken to be a part of this Act.

Valuation of Goods chargeable ad valorem

X. The Governor General of India in Council shall have power to fix from time to time the valuation at which any article liable to *ad valorem* duty on passing a River Frontier Custom House shall be valued in order to the assessment of duty and in respect of goods passing such a Custom House, which are not so valued, in case of dispute respecting their value, the Collector of Customs of the station shall have power to call on the possessor of the goods to assign the value thereof; and thereupon the Collector of Customs shall have power, if he pleases, to purchase such goods on account of Government, at the value so assigned, paying for such goods forthwith, after deducting the duty due upon them according to the value so assigned.

Special Rule for Arms, Ammunition and Sulphur

XI. Arms, Ammunition, or Sulphur shall not be imported by sea into the Arracan, Pegu, Martaban, or Tenasserim Provinces; nor exported by land or by river into any Foreign Territory, from any of those Provinces; without a license from a Collector of Customs, or other Officer having charge of the collection of Customs and such articles, if an attempt be made so to import or export them, shall be confiscated.

Commencement of Act

XII. This Act shall commence and take effect from and after the first day of January 1855.

SCHEDULE

REFERRED TO IN SECTION IX. OF THIS ACT.

Enumeration of Goods.	*Rate of Export Duty.*
Rice..	An anna a basket.
Paddy.....	Half an ann a abasket.
Salt.....	Four annas a maund.
Betel-Nut..	Ten *per centum ad valorem.*
Nyapee ; dried, smoked, salted, and preserved fish and fish roes.....	Ten *per centum ad valorem.*

ACT No. XXXI. OF 1854.

Passed on the 16th of December 1854.

An Act to abolish real actions and also fines and common recoveries, and to simplify the modes of conveying land in cases to which the English Law is applicable.

Preamble.

Whereas it is expedient, in cases to which the English law applies to abolish real actions and also fines and common recoveries, and to simplify the modes of conveying land, and to exempt the purchasers of trust property from the liability to see to the application of the purchase money, it is enacted as follows :—

Real actions, &c. abolished.

I. All real actions, fines and common recoveries, except such as may be in progress when this Act comes into operation, are abolished.

Tenant in tail may dispose of or enlarge his estate by simple deeds, &c.

II. Every tenant in tail or other owner of an estate of inheritance less than an estate in fee simple, either at law or in equity, in any lands or hereditaments, not being under any disability, shall have power to dispose of such lands and hereditaments against the issue in tail and all persons whose estates are to take effect after the determination or in defeazance of his own, or to enlarge his said estate into an estate in fee simple, by any deed declaring an intention so to dispose of the said lands or hereditaments, or to enlarge his estate therein ; and every tenant in tail or other owner of an estate of inheritance less than an estate in fee simple, who shall be under the disability of coverture, shall have power to dispose of or enlarge her said

estate in manner aforesaid, by any deed declaring her intention so to do, and acknowledged by her as hereinafter mentioned. Provided that every disposition under this Section shall be subject to the rights of all persons in respect of estates prior to the estate tail or other estate of inheritance which is the subject of such disposition, and the rights of all other persons except those against whom such disposition is by this Act authorized to be made.

A married woman, with her husband's concurrence, empowered to dispose of her estate by deed acknowledged, &c.

III. Every married woman who, either alone or jointly with her husband, is possessed of, or entitled to any estate or interest in, or any power to be exercised over any lands or hereditaments, which, but for the passing of this Act, she might have disposed of or extinguished by levying a fine, or suffering a recovery, or by joining in either of such assurances, shall have power by deed, to be acknowledged by her as hereinafter mentioned, to dispose of, release, surrender, or extinguish any such estate, interest, or power, as fully and effectually as if she were an unmarried woman.

Provision to apply to money subject to be invested in lands.

IV. The provisions of the last two. preceding Sections shall, so far as circumstances will admit, apply to money subject to be invested in lands or other hereditaments.

Execution of deeds by married woman.

V. No deed to be executed by a married woman under the provisions hereinbefore contained shall, so far as regards the interest of such married woman, be valid or effectual, unless her husband concur therein, nor unless the deed be acknowledged in manner hereinafter prescribed before a Judge of one of Her Majesty's Supreme Courts, or before a Judge or other covenanted officer of the East India Company exercising civil jurisdiction in the place wherein such deed shall be acknowledged, or before some Commissioner appointed either specially for the occasion, or appointed as a permanent Commissioner by one of Her Majesty's said Courts to take such acknowledgments.

If husband be lunatic, &c., Court may direct acknowledgment by deed without his concurrence, saving right of the husband, &c.

VI. If the husband of any married woman, desirous of enlarging, passing, or destroying any estate, interest, or power, by a deed to be acknowledged by her under this Act, shall be a lunatic, idiot, or of unsound mind, whether he shall have been found such by inquisition or not, or from any other cause shall be incapable of executing a deed, or if his residence shall not be known, or if he shall be in prison, or living apart from his wife either

by mutual consent, or by sentence of divorce, or in consequence of his being transported beyond the seas, or from any other cause whatever, it shall be lawful for any of Her Majesty's said Courts, by an order to be made in a summary way upon the application of such married woman, and upon such evidence as to the Court shall seem meet, to dispense with the concurrence of her husband in the deed so to be acknowledged; and any deed to be executed or acknowledged by her in pursuance of such order shall (but without prejudice to the rights of her husband as then existing, independently of this Act) be as valid and effectual as if he had concurred therein.

Supreme Courts may appoint for the purpose of taking such acknowledgment, permanent or special Commissioners.

VII. It shall be lawful for any of Her Majesty's said Courts to appoint, by its order, under the seal of the Court, to be published in the *Government Gazette*, or otherwise as the Court shall direct, permanent Commissioners, either by name or office, and to appoint from time to time, under special Commissions, Special Commissioners, any one of whom shall be authorized and empowered, unless the Act is directed to be done before more than one, to take the acknowledgment of any deed by any married woman, who, by reason of her place of residence, or ill health, or other sufficient cause, shall be unable to make such acknowledgment before one of the Judges or other Officers described in the preceding Section.

Such married woman to be examined apart before Judge, &c., taking her acknowledgment.

VIII. Every such Judge, Officer, or Commissioner as aforesaid, before he shall receive the acknowledgment by any married woman of any deed to be acknowledged by her under this Act, shall examine her apart from her husband, touching her knowledge of such deed, and shall ascertain whether she understands its object, and freely and voluntarily consents to the same, and unless she appears to understand its object, and freely and voluntarily to consent to such deed, he shall not permit her to acknowledge the same, and in such case, such deed, so far as relates to the execution thereof by such married woman, shall be void.

Judge &c. shall sign a memorandum of acknowledgment—form of it.

IX. Every Judge, Officer, or Commissioner, taking such acknowledgment under this Act, shall, at the time of taking the same, sign a memorandum to be endorsed on or written at the foot or in the margin of such deed, which memorandum shall be to the following effect, namely, "this deed marked ( ) was this day produced before me and acknowledged by therein named, to be her act and deed

previous to which acknowledgment the said was examined by me separately and apart from her husband, touching her knowledge of the contents of the said deed and her consent thereto, and appeared to understand the same, and declared the same to be freely and voluntarily executed by her."

Deed of married woman to take effect from time of acknowledgment.

X. Every deed executed by a married woman and hereby required to be acknowledged shall, so far as regards the interest of such married woman, take effect only from the time of the acknowledgment thereof.

Deed when presumed to have been duly acknowledged.

XI. It shall not be necessary for any person producing a deed so acknowledged in any Court of Justice, to prove the handwriting or authority of the Judge or other Officer, or the Commissioner taking such acknowledgment, but if such memorandum purports to have been in substance regularly made and signed, the deed shall be presumed to have duly acknowledged by the party, until the contrary is shewn.

Nothing in this Act to abridge the powers of alienation which a married woman possessed before.

XII. Nothing in this Act contained shall abridge, extend, or affect the powers of alienation or disposition, which any married woman might have exercised over any property or rights, otherwise than by levying a fine or suffering a recovery, or by joining in one of such assurances before the passing of this Act..

Contingent estates, in deeds or wills, without trustees to preserve, to be protected by the law from destruction.

XIII. In any deed or will executed after this Act comes into operation, and disposing of immoveable property situate in the territories in the possession and under the Government of the East India Company, wherein contingent estates are limited without the appointment of any trustees to preserve such contingent estates, the same shall be, to all intents and purposes, as effectually protected by the law, as if such trustees had been duly appointed.

Estate may be conveyed, &c, by deed though not operating under the Statute of Uses.

XIV. Any estate or interest in immoveable property, situate within the said territories, whether in possession, remainder, or reversion, may, in addition to any other mode of conveyance or release which is now valid, be conveyed, passed, or released by a simple deed, whether such deed operate under the Statute of Uses or not.

XV. No conveyance of any kind shall operate to destroy, impair,

No conveyance to operate tortuously

or affect any estate or interest which the conveying party has no right to destroy, impair, or affect, or beyond the extent to which he may impair or affect the same.

Words of limitation not necessary in a deed, to give estate by inheritance.

XVI. It shall not be necessary in any deed relating to immovable property situate within the said territories, to be executed after the passing of this Act, to add words of limitation to heirs, when the intention is to give the absolute interest to a person and his heirs general; but a gift, grant, or other conveyance of immovable property to, or in favor of any person, shall be taken to give him the entire and absolute interest in the nature of an estate in fee simple, unless such construction is rendered inadmissible by the other contents of the deed; and when in any deed or will executed after the passing of this Act any property is given to a person for life or for other freehold interest, and afterwards in the same deed, or will, is limited to his heirs or heir special, the estates shall not unite, but the limitation to the heirs shall be a limitation of an estate to be taken by the heirs by purchase.

Estate limited to heirs shall not unite with a prior life estate.

Bonâ-fide purchaser not required to see to application of trust-money in any case.

XVII. When any property is sold, the proceeds of which are subject to any trust, the *Bonâ-fide* purchaser of the property shall not in any case be bound to see to the application of the purchase-money to the purposes of the trust.

Act to apply only to cases governed by English Law.

XVIII. Nothing in this Act contained shall extend to any case to which the English Law is not applicable.

Interpretation.

XIX. The term "Her Majesty's Supreme Courts" shall include the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca.

ACT No. XXXII of 1854.

Passed on the 16th of December 1854.

An Act to facilitate inquiries respecting the alleged use of Torture in the Presidency of Fort St. George.

[*This Act has been omitted in consequence of the dissolution of the Commission on the presentation of a Report of the result of their enquiries respecting the alleged use of Torture. Vide Fort St. George Gazette, p.* 551.]

ACT No. XXXIII. OF 1854.

Passed on the 23d of December 1854.

An Act to extend the provisions of Act No. XII. of 1843.

Preamble

Whereas it is expedient that every decision, sentence, or final order made or passed by any Officer of the East India Company acting judicially, together with the reasons for the same, should be written in the Vernacular language of the Officer by whom the same is made or passed, and should be signed by him at the time of pronouncing such decision, sentence, or order; it is enacted as follows:—

Decisions to be written in the Vernacular language of the Judge, and to be signed by him and filed.

I. Every decision, sentence, or final order, which shall hereafter be made or passed by any Officer of the East India Company acting judicially, together with the reasons for making or passing the same, shall be written in the Vernacular language of such Officer, and shall be dated and signed by such Officer in Court at the time of his making or passing the same, and the original shall be filed with the record or proceedings in the case, and a translation thereof, where the original is recorded in a different language to that in ordinary use in proceedings before such Officer, shall be incorporated in the decree, or record of the decision, sentence, or order.

Translation when to be recorded.

Points to be established shall be written in the Vernacular language of the Judge and signed by him in Court.

II. Whenever, in any suit before any Officer of the East India Company acting judicially, the points to be established by the parties respectively, or on which proof is required by the Court, are directed by law to be recorded, the point shall be written in the Vernacular language of such Officer and the writing shall be dated and signed by him in Court at the time of his announcing the points to the parties; and if the Vernacular language of such Officer be different from the language in ordinary use in proceedings before the Court, a translation shall be incorporated in the record.

Translation when to be recorded.

Decision not required to be written in open Court.

III. Nothing in this Act, or in Act No. XII. of 1843, shall be so construed as to require Officers of the East India Company acting judicially to write their decisions, sentences, injunctions, or orders, or to record the point or points to be established by the parties respectively under the last preceding Section in open Court.

IV. No appeal shall lie from any decision, sentence, injunction, or

No appeal for non-compliance with this Act or Act No. XII. of 1843.

Appellate Court by precept may require compliance.

order, nor shall the same be reversed or remanded, upon the ground of non-compliance with the provisions of this Act or of Act No. XII. of 1843. But the Appellate Court may, by precept, require the Officer of the Lower Court to comply with the provisions of this Act or of Act No. XII of 1843, and to certify his reasons for any such decision, sentence, or order to the Appellate Court; and any such Appellate Court may, if it deem it necessary for the ends of justice, postpone its final decision in the appeal until such precept shall have been returned.

Saving of provisions of Act No. XII of 1843

V. Nothing in this Act contained shall be deemed to repeal any of the provisions of Act No. XII. of 1843.

ACT No. XXXIV. OF 1854.

Passed on the 23d of December 1854.

An Act for regulating the establishment and management of Electric Telegraphs in India.

Preamble.

Whereas it is expedient that provision should be made for regulating the establishment and management of lines of Electric Telegraph in India, it is enacted as follows.—

The E. I Company to have the exclusive privilege of establishing Electric Telegraphs

Proviso.

I. Within the territories in the possession and under the Government of the East India Company, the said East India Company shall have the exclusive privilege of establishing lines of Electric Telegraph. Provided that the Governor General of India in Council may grant a license to any person or Company to establish a line of Electric Telegraph within any part of such territories, which license shall be revocable on the breach of any of the conditions therein contained.

Penalties for establishing or maintaining unauthorized Electric Telegraph.

II. Whoever shall, otherwise then under a license duly granted as aforesaid, establish or after revocation of such license maintain a line of Electric Telegraph within the said territories, shall be liable to a fine not exceeding one thousand rupees, and for every week during which such line shall be

maintained shall be liable to a further fine not exceeding five hundred rupees.

Penalty for using or working such Telegraphs.

III. Whoever shall use a line of Electric Telegraph, knowing or having reason to believe that it is an unlicensed line, for the purpose of sending or receiving messages, or shall perform any service incidental thereto, shall, for every such offence, be liable to a fine not exceeding fifty rupees.

Government may take possession of Telegraphs established by license.

IV. The Governor General of India in Council may, on the occurrence of any public emergency, take temporary possession of any line of Electric Telegraph established under license within the said territories.

Government may establish Telegraph on land of Railway Company.

V. Any Railway Company, on being required so to do by the Governor General of India in Council, shall permit the Government to establish upon the land of such Company adjoining the line of Railway a line of Electric Telegraph, and shall give every [redacted]able facility for establishing and using the same.

Governor General in Council to frame rules for the conduct of Government Telegraphs.

VI. The Governor General of India in Council may from time to time frame rules for the conduct of Electric Telegraphs established by Government not inconsistent with this Act, and therein prescribe the regulations, conditions, and restrictions according to which all messages and signals shall be transmitted.

Government not responsible for loss or damages.

VII. The Government shall not be responsible for any loss or damage which may occur in consequence of any person employed by the Government in the Electric Telegraph Department failing to transmit with accuracy any message entrusted to him for transmission; and no such person shall be responsible for any such loss or damage, unless he shall cause the same negligently, maliciously, or fraudulently.

No person to intrude into a Telegraph Office.

VIII. Whoever shall without permission enter into a Government Telegraph Office, or shall refuse to quit the same on being requested to do so by any officer or servant employed therein, or shall wilfully obstruct or impede any such officer or servant in the performance of his duty, shall be liable to a fine not exceeding one hundred rupees.

Penalties for cutting the line.

IX. Whoever shall wilfully cause or attempt to cause any interruption to the transmission of signals along a line of Electric Telegraph established by the Government, by cutting or injuring the wire, or by injuring any portion of the line, or any instrument or apparatus, or by any other means, shall be liable to be imprisoned, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

Injuring posts, &c.

X. Whoever shall wilfully or negligently damage or injure any post or any portion of the line of such Electric Telegraph, shall be liable to a fine not exceeding fifty rupees.

Penalties for fraudulently omitting to transmit messages or for disclosing secret messages.

XI. Whoever, being in the employ of the Government in the Electric Telegraph Department, shall fraudulently or maliciously secrete, make away with, alter, or omit to transmit any message which he may have received for transmission, or shall fraudulently or maliciously disclose any message so received by him and directed to be kept secret, shall be liable to be imprisoned, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

Penalty for misconduct.

XII. Whoever being in such employ shall be guilty of any act of drunkenness, carelessness, or other misconduct, whereby the transmission or delivery of any message shall be endangered, or who shall loiter or make delay in the transmission or delivery of any message, shall be liable to a fine not exceeding one hundred rupees.

Penalties for sending messages without payment to Government.

XIII. Whoever being in such employ shall transmit by the Electric Telegraph any message upon which the prescribed charge has not been paid, intending thereby to defraud the Government, shall be liable to be imprisoned, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

Penalties for transmission of fabricated messages

XIV. Whoever shall fraudulently or maliciously transmit or cause to be transmitted by an Electric Telegraph established by Government a message which he knows to be false or fabricated, shall be liable to be imprisoned, with or without hard labor, for a term not exceeding two years, or to fine, or both.

Persons other than European British subjects liable to be punished.

XV. Any person not being a European British subject, who shall, beyond the local limits of the jurisdiction of Her Majesty's Supreme Court of Judicature, commit any of the offences mentioned in Sections IX. XI. XIII. and XIV. of this Act, shall be punishable upon conviction by any Magistrate within whose jurisdiction the offence shall be committed.

Fines how to be recovered.

XVI. Any person, whether a European British subject or not, who shall be guilty of any offence for which, according to the provisions of this Act, he shall be liable to a fine only, shall be punishable for such offence by any Justice of the Peace for any of the Presidency Towns of Calcutta, Madras, and Bombay, or for any of the Settlements of Prince of Wales' Island, Singapore, and Malacca, Magistrate, Joint Magistrate, or person lawfully exercising the powers of Magistrate, within whose jurisdiction the offence shall be committed; and any person hereby made punishable by a Justice of the Peace, shall be punishable upon summary conviction.

Conviction to be quashed on merits only. Form of conviction, &c.

XVII. No conviction, order, or judgment of any Justice of the Peace shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds; but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment, in obedience to any writ of *certiorari*; and if no jurisdiction appears on the face of the conviction, order, or judgment, but, the depositions taken supply that defect, the conviction, order or judgment shall be aided by what so appears in such depositions.

Magistrate may refer charge to his Assistants.

XVIII. A Magistrate may refer for trial and decision any charge of an offence hereby made punishable by fine only, to any of his Assistants or to any Deputy Magistrate lawfully appointed to exercise the powers of a Covenanted Assistant; and in such case every such Assistant or Deputy Magistrate, may exercise all the powers vested in a Magistrate, subject to all the rules applicable to criminal cases deputed to such Assistants or Magistrates acting judicially.

Government may authorize Assistant and Deputy Magistrates to exercise certain powers.

XIX. The local Government may give general authority to any such Assistant or Deputy Magistrate to exercise, without reference by a Magistrate, any of the powers which they are hereby rendered competent to exercise upon reference by a Magistrate, subject to appeal to the

Magistrate from any conviction by such Assistant or Deputy Magistrate, within one month from the date of the conviction. Provided that a Magistrate may at any time call from any of his Assistants, or from any Deputy Magistrate subordinate to him any case pending before such Assistant or Deputy Magistrate.

Fine how levied.

XX. All fines imposed under the authority of this Act, for offences punishable by fine only, by any Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, or by any Assistant to a Magistrate, or Deputy Magistrate, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of any of the above-named Officers; and in case any such fine shall not be forthwith paid, any such Officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless such party shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress, and such Officer may take such security by way of recognizance or otherwise; and if, upon the return of such warrant, it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the party or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such Officer by warrant under his hand may commit the offender to prison, there to be imprisoned only, or to be imprisoned and kept to hard labor, according to the discretion of such Officer, for any term not exceeding two calendar months where the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four calendar months where the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Imprisonment, if no sufficient distress, &c.

Authority to punish servants of the East India Company who commit offences against this Act in Foreign territory.

XXI. If any Servant of the East India Company, employed in the Electric Telegraph Department within the dominions of any Foreign Prince or State in alliance with the said Company, in which an Electric Telegraph is established by the said Company, shall, within the dominions of such Prince or State, commit, any act here-

by prohibited, or omit to do any act hereby required to be done by any person similarly employed within the territories under the Government of the said Company, such Servant of the said Company shall be guilty of an offence, and on conviction thereof shall be punished in the same manner as if such act had been done or omitted within the said last mentioned territories; and every such person may be tried, convicted, and punished either by fine or otherwise, according to the nature of the offence, by any Court or Officer duly empowered by the Governor General of India in Council to take cognizance of offences committed in such dominions by servants of the East India Company, or by any Court or Magistrate or other competent Officer in any part of the territories within the Government of the East India Company, in the same manner as if the offence had been committed in such part of the said territories.

Explanation of terms.

XXII. The word "Magistrate" in this Act shall include Joint Magistrates and persons lawfully exercising the powers of Magistrates, and the word "fine" shall include a penalty or forfeiture.

Government to frame rules for Telegraphs established by license.

XXIII. It shall be lawful for the Governor General in Council to frame rules for the conduct of any Electric Telegraph established by license under this Act, and to declare from time to time what portions of this Act shall be applicable to such Telegraph and to persons using the same or employed in connection therewith.

ACT No. II. OF 1855.

Passed on the 22d of February 1855.

An Act for the further improvement of the Law of Evidence.

Preamble.

WHEREAS it is expedient further to improve the Law of Evidence, It is enacted as follows:—

Act repealed.

I. Act No. X. of 1835 is hereby repealed.

Judicial notice to be taken of all Acts and Regulations.

II. Within the territories in the possession and under the Government of the East India Company, all Courts of Justice and all persons having by law or consent of parties authority to take evidence shall take judicial notice of all Regulations and Ordinances made before or on the

22nd day of April 1834 by the Governor General in Council of the Presidency of Fort William in Bengal, by the Governor in Council of the Presidency of Fort St. George, or by the Governor in Council of the Presidency of Bombay, and having the force of Law in any part of the said territories, and of all Laws and Regulations heretofore made by the Governor General of India in Council, and of this Act, and of all Acts and Regulations heretofore made, or hereafter to be made by the Governor General of India in Council, constituted for the purpose of making Laws and Regulations, whether the same be of a public or of a private nature.

Judicial notice to be taken of public Acts of Parliament.

What shall be primâ facie *proof of a private Act.*

III. All Courts and persons aforesaid shall take judicial notice of all public Acts of Parliament and of all local and personal Acts declared by Parliament to be public and to be judicially noticed, and shall admit as *primâ facie* evidence of any private Act of Parliament, any copy thereof purporting to be printed by the King's Printer.

Judicial notice to be taken by Court of its own Officers, &c.

IV. Every Court shall take judicial notice of its own Members and Officers respectively, and of their deputies and subordinate Officers or Assistants, and also of all Officers acting in execution of its process, and of all Advocates, Attornies, Proctors, Vakeels, Pleaders, and other persons authorized by Law to act before it.

Judicial notice to be taken of the names, titles, &c., of certain persons.

V. All Courts and persons aforesaid shall take judicial notice of the names, titles, and authorities of the persons filling for the time being any one of the following offices in any part of the said territories:—Governor General, Governor, Lieutenant Governor or Deputy Governor, Secretary or Under-Secretary to Government, Commander-in-Chief, Bishop, Member of Council, Legislative Councillor, Judge of any of Her Majesty's Courts or of any Sudder Court, or of any Court of Judicature hereafter to be constituted in the said territories, to or in which the powers of any of Her Majesty's Supreme Courts may be transferred or vested.

Judicial notice to be taken of divisions of time, place, &c.

VI. All such Courts and persons aforesaid shall take judicial notice of all divisions of time, of the geographical divisions of the world, of the territories under the dominion of the British Crown, of the commencement, continuation and termination of hostilities between the British Crown and any other State, and also of the existence, title and national flag of every Sovereign or State recognized by the British Crown. In all the above cases,

such Court or person may resort for its aid to appropriate Books or documents of reference.

Proof of Government Gazette.

VII. Any *Government Gazette* of any Country, Colony, or dependency under the dominion of the British Crown, may be proved by the bare production thereof before any of the Courts or persons aforesaid.

Proof of Proclamations, Acts of State, &c.

Proclamations, &c. when to be primâ facie *proof of fact.*

VIII. All Proclamations, Acts of State, whether Legislative or Executive, nominations, appointments, and other official communications of the Government appearing in any such *Gazette*, may be proved by the production of such *Gazette*, and shall be *primâ facie* proof of any fact of a public nature which they were intended to notify.

Recital in Act of a fact of a public nature to be primâ facie *proof.*

IX. Any recital contained in any Act of the Governor General of India in Council, constituted for the purpose of making Laws and Regulations hereafter to be passed of any fact of a public nature, shall be deemed, before all such Courts and persons, to be *primâ facie* evidence of the truth of the fact recited.

Gazette, &c, containing advertisement purporting to be published by authority, to be primâ facie *evidence of such authority.*

X. The *Gazette* or Newspaper containing any advertisement purporting to be published by virtue of any public Statute, Act, Regulation or Ordinance, or of any Rule or Order of a Court of Justice or of any Board or Officer of Revenue, may be received by any such Courts or persons as aforesaid as *primâ facie* evidence that such advertisement was published duly under the authority from which it purports to proceed.

Books, Maps, &c., to be evidence in matters of public history, &c.

XI. All Courts and persons aforesaid may, on matters of public History, Literature, Science, or Art, refer, for the purposes of evidence, to such published Books, Maps, or Charts as such Courts or person shall consider to be of authority on the subject to which they relate.

What Books, &c, shall be evidence of Foreign Law.

XII. Books printed or published under the authority of the Government of a Foreign Country and purporting to contain the Statutes, Code, or other written Law of such Country, and also printed and published Books of Reports of decisions of the Courts of such Country, and Books proved to be commonly admitted in such Courts as evidence of the Law of such Country, shall be admissible before any such Courts or persons as aforesaid as evidence of the Law of such Foreign Country.

XIII. All Maps made under the authority of Government or of any public municipal body, and not made for the purpose of any litigated question, shall *primâ facie* be deemed to be correct, and shall be admitted in evidence without further proof.

Government or public Maps when to be primâ facie proof.

XIV. The following persons only shall be incompetent to testify.

Persons incompetent to testify.

1. Children under seven years of age, who appear incapable of receiving just impressions of the facts respecting which they are examined, or of relating them truly.

Children.

2. Persons of unsound mind, who, at the time of their examination, appear incapable of receiving just impressions of the facts respecting which they are examined, or of relating them truly; and no person who is known to be of unsound mind shall be liable to be summoned as a witness, without the consent previously obtained of the Court or person before whom his attendance is required.

Insane persons.

Not to be summoned without leave of Court.

XV. Any person who, by reason of immature age or want of religious belief, or who by reason of defect of religious belief, ought not, in the opinion of such Court or person, to be admitted to give evidence on oath or solemn affirmation, shall be admitted to give evidence on a simple affirmation, declaring that he will speak the truth, the whole truth, and nothing but the truth.

Children and persons of defective religious belief to testify on simple affirmation.

XVI. The provisions in the last preceding Section as to witnesses shall apply to testimony given by affidavit or otherwise in writing, as well as to testimony orally delivered.

Provisions as to witness to apply to affidavits, &c.

XVII. Any such witness wilfully giving false evidence shall be subject to be proceeded against in like manner, and to suffer, if convicted, the same punishment as if he had been sworn and had committed wilful and corrupt perjury. The indictment or charge shall be varied so as to meet the case.

Punishment for giving false evidence.

XVIII. No person shall, by reason of any interest in the result of any suit or of any interest connected therewith, or by reason of relationship to any of the parties thereto, be incompetent to give evidence in such suit.

No incompetency from interest in suit.

XIX. Any party to a civil suit or other proceeding of a civil

Party to suit may be examined as a witness.

nature shall be competent and may be compelled to give evidence as a witness therein either on his own behalf or on behalf of any other party to the suit or proceeding, and also to produce any document in his possession or power, in the same manner as if he were not a party to the suit or proceeding. Provided that no Court or person as aforesaid, other than Her Majesty's Supreme Courts of Judicature, shall compel the attendance of any party to such suit or proceeding, for the purpose of giving evidence therein, except under and subject to the rules prescribed in that behalf in Act XIX. of 1853.(a)

Proviso.

Husband or wife giving evidence.

XX. A husband or wife shall in every civil proceeding be competent to give evidence for or against each other. Provided that any communication made by husband or wife to the other during their marriage shall be deemed a privileged communication and shall not be disclosed without the consent of the person making the same, unless such communication shall relate to a matter in dispute in a suit pending between such husband and wife.

Proviso.

XXI. A witness, whether a party or not, shall not be bound to produce any document relating to affairs of State, the production of which would be contrary to good policy, nor any document held by him for any other person who would not be bound to produce it if in his own possession.

Witness, &c., not bound to produce document relating to State affairs.

XXII. A witness being a party to the suit shall not be bound to produce any document in his possession or power which is not relevant or material to the case of the party requiring its production, nor any confidential writing or correspondence which may have passed between him and any legal professional adviser. If any party however offer himself as a witness, he shall be bound to produce any such writing or correspondence in his custody, possession, or power, if relevant or material to the case of the party requiring its production.

Party to suit not bound to produce certain documents.

Unless he offers himself as a witness.

XXIII. Every witness summoned to produce a document shall, if the same be in his custody, possession, or power, be bound to bring it or cause it to be brought into Court, although there be a valid objection to the right of the party calling for it to compel its production or to the reading or putting it in as evidence, or to the dis-

Witness summoned to produce a document must bring it into Court.

Mode of determining objection to production.

(a) These provisions are embodied in Act X of 1855.

closure of the contents thereof, the validity of any such objection made by the person producing the document shall be determined by the Court; and for the better determination thereof, it shall be lawful for the Court to receive any admissible evidence, which the person producing the document may give respecting it, and it shall also be lawful for the Court, except in the case of any document relating to affairs of State, to inspect the document, and, if necessary, to call to its assistance any person whom it may appoint to interpret the same. Such person, however, shall be previously sworn truly to interpret the same to the Court alone, and not to disclose the contents thereof except to the Court, unless the Court shall order the document to be given in evidence.

Document relating to affairs of State.

XXIV. A Barrister, Attorney, or Vakeel shall not, without the consent of his client, disclose any communication made by the client to him in the course of his professional employment, nor any advice given by him professionally to his client, nor the contents of any document of his client, the knowledge of which he shall have acquired in the course of his professional employment. The privilege, however, is that of the client, and if any party to a suit shall give evidence therein, at his own instance, he shall be deemed thereby to have waived his privilege, and to have consented to the disclosure by such Barrister, Attorney, or Vakeel, of any matter as aforesaid, which may be relevant, and which the Barrister, Attorney, or Vakeel would have been bound to disclose, but for the privilege of his client, and the Barrister, Attorney, or Vakeel shall be bound upon examination to disclose any such matter.

Professional communications.

XXV. Any person present in Court, whether a party or not, may be called upon and compelled by the Court to give evidence, and produce any document then and there in his actual possession, or in his power, in the same manner and subject to the same rules as if he had been summoned to attend and give evidence, or to produce such document, and may be punished in like manner for any refusal to obey the order of the Court.

Persons present in Court to give evidence, &c. though not summoned.

XXVI. Any person, whether a party to the suit or not, may be summoned to produce a document without being summoned to give evidence, and any person summoned merely to produce a document, shall be deemed to have complied with the summons, if he cause such document to be produced instead of attending personally to produce the same.

Persons summoned to produce a document not bound to attend personally.

Rules of Evidence in Supreme Courts on Ecclesiastical and Admiralty sides.

XXVII. The Rules of Evidence in Her Majesty's Supreme Courts as to matters of Ecclesiastical or Admiralty Civil Jurisdiction, shall be the same as they are on the Plea side of the said Courts.

Evidence of one witness sufficient proof.

XXVIII. Except in cases of treason, the direct evidence of one witness, who is entitled to full credit, shall be sufficient for proof of any fact in any such Court or before any such person. But this provision shall not affect any rule or practice of any Court that requires corroborative evidence in support of the testimony of an accomplice or of a single witness in the case of perjury.

Proviso.

Dying declarations when admissible.

XXIX. Where dying declarations are evidence they shall be received, if it be proved that the deceased was at the time of making the declaration, and then thought himself to be in danger of approaching death, though he entertained, at the time of making it, hope of recovery.

Party allowed to cross-examine and discredit his own witness.

XXX. The party at whose instance a witness is examined may, with the permission of such Court or person, cross-examine such witness, to test his veracity, in the same manner as if he had not been called at his instance, and may be allowed to show that the witness has varied from a previous statement made by him.

Former statement admissible to corroborate a witness.

XXXI. In order to corroborate the testimony of a witness, any former statement made by such witness, relating to the same fact, at or about the time when the fact took place, or before any authority legally competent to investigate the fact, shall be admissible, and for that purpose a copy of any deposition or statement taken before any Court, Judge, Justice of the Peace, Magistrate, or person lawfully exercising the powers of a Magistrate, or before a Commissioner or Superintendent for the Suppression of Thuggee or Dacoity in the discharge of his duty, shall, if certified by such Court, Judge or other Officer above-mentioned, under his hand or the Official Seal of the Court, or under the hand or Official Seal of such Judge, to be a true copy of such deposition or statement, without further proof, be received as *primâ facie* evidence that such deposition or statement was made, and that it was made at the time and place, and under the circumstances, if any, which shall be stated in the certificate or on the face of the deposition or statement.

Witness bound to answer crimination questions.

XXXII. A witness shall not be excused from answering any question relevant to the matter at issue in any suit or in any Civil or Criminal proceeding, upon the ground that the answer to such question will criminate, or may tend, directly or indirectly, to criminate such witness, or that it will expose, or tend, directly or indirectly, to expose such witness to a penalty or forfeiture of any kind. Provided that no such answer, which a witness shall be compelled to give, shall, except for the purpose of punishing such person for wilfully giving false evidence upon such examination, subject him to any arrest or prosecution, or be used as evidence against such witness in any criminal proceeding.

Proviso.

Witness may be examined as to conviction for felony.

XXXIII. A witness in any cause may be questioned as to whether he has been convicted of any felony or misdemeanor, and upon being so questioned, if he either denies the fact or refuses to answer, it shall be lawful for the opposite party to prove such conviction.

Cross-examination as to previous written statements.

XXXIV. A witness may be cross-examined as to previous statements made by him in writing, or reduced into writing, relative to the subject matter of the cause, without such writing being shown to him; but if it is intended to contradict such witness by the writing, his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him. Provided always, that it shall be competent for the Judge, at any time during the trial, to require the production of the writing for his inspection, and he may thereupon make such use of it for the purposes of the trial as he shall think fit.

Proviso.

Copy of a document made by a copying machine to be deemed correct.

XXXV. An impression of a document made by a copying machine shall be taken without further proof to be a correct copy.

Admission of secondary evidence where original document is out of the reach of process.

XXXVI. When an original document is out of the reach of the process of the Court, it shall be lawful for the Court, on application to it in any Civil suit or proceeding, and on notice to the opposite party at a reasonable time before the hearing, to make an order for the reception of secondary evidence of its execution and contents.

When attested document may be proved as if unattested.

XXXVII. An attested document may be proved as if unattested, unless it be a document to the validity of which attestation is requisite.

Admission primâ facie proof of an attested document.

XXXVIII. The admission of a party to an attested instrument of its execution by himself shall be as against him sufficient *primâ facie* proof of such execution of it, though it be an instrument which is required by law to be attested.

Entry made against interest or in course of business when admissible in life-time of person making it.

XXXIX. Any entry or statement, which would be admissible in evidence after the death of the person who made it, on the ground of its having been made against the interest of the person making it, or on the ground of its having been made in the ordinary course of business, shall be admissible, though the person who made it be not dead, if he is incapable of giving evidence by reason of his subsequent loss of understanding, or is at the time of the trial or hearing *bona fide* and permanently beyond the reach of the process of the Court, or cannot after diligent search be found.

Entry in course of business when admissible for purpose of identification.

XL. Any entry in any books proved to have been regularly kept in the course of business or in any public office, so far as such entry merely refers to and tends to identify by name, description, number or otherwise any Bank Notes or other Securities for the payment of money, or other property, and the payer-in or receiver of them, shall, in any case where such identification is necessary to be proved, be admissible in evidence for that limited purpose if it shall appear to have been made at or about the time of the transaction to which it relates, though the person who made it, or he on whose information it was made, is alive and capable of being produced as a witness.

Receipt when evidence against person other than the giver.

XLI. Any receipt in writing, acknowledging the receipt of any money, valuable securities of goods, shall, on proof of the execution thereof, be admissible in evidence before such Court or person aforesaid, not only against the party giving it, but also against any person in whose favor such receipt would operate as a discharge, or to whom it would render the person giving it liable for the money, security or goods acknowledged to have been received.

Receipt of agent.

XLII. Whenever a receipt would be admissible under the preceding Section, if given by a principal, a receipt given by an agent or servant of such principal

shall in like manner be evidence upon proof of the authority to give such receipt.

Books kept in course of business or in a public office admissible as corroborative evidence.

XLIII. Books proved to have been regularly kept in the course of business or in any public office shall be admissible as corroborative, but not as independent proof of the facts stated therein.

Documents admissible as corroborative evidence.

XLIV. The following documents may be admitted as corroborative evidence:—Certificates of shares, and of registration thereof, bills of lading, invoices, account sales, receipts usually given on the payment, deposit or delivery of money, goods, securities, or other things, provided they be proved to have been given in the ordinary course of business.

Refreshing memory of witness.

XLV. A witness shall be allowed before any such Court or person aforesaid to refresh his memory by any writing made by himself or by any other person at the time when the fact occurred, or immediately afterwards, or at any other time when the fact was fresh in his memory, and he knew that the same was correctly stated in the writing. In such case the writing shall be produced and may be seen by the adverse party, who may, if he choose, cross-examine the witness upon it.

Court may permit a copy of document to be used to refresh memory.

XLVI. Whenever a witness may refresh his memory by reference to any document, he may, with the permission of the Court, refer to a copy of such document, provided the Court or person, under the circumstances, be satisfied that there is sufficient reason for the non-production of the original.

Declarations of illegitimate persons, &c. admissible in questions of pedigree.

XLVII. In cases of pedigree, the declarations of illegitimate members of the family, and also of persons who, though not related by blood or marriage to the family, were intimately acquainted with its members and state, shall be admissible in evidence after the death of the declarant, in the same manner and to the same extent as those of deceased members of the family.

Comparison of handwriting &c.

XLVIII. On an inquiry whether a signature, writing or seal is genuine, any undisputed signature, writing or seal of the party, whose signature, writing or seal is under dispute, may be compared with the disputed one, though such

signature, writing or seal be on an instrument which is not evidence in the cause.

Proof of power of Attorney.

XLIX. Any Power of Attorney, which has been executed at a place distant more than 100 miles from the place wherein the action, suit or proceeding is depending, may be proved by the production of it, without further proof, where it purports, on the face of it, to have been executed before, and authenticated by a Notary Public or any Court, Judge, Consul or Magistrate.

Proof of dispatch of letter by Letter Book.

L. Whenever it is proved that a Letter Book is kept, and that, according to the usual course of business, letters are copied into such book and dispatched, and the Letter Book is produced, and it is proved that the letter was dispatched according to the usual practice, to the best of the knowledge and belief of the witness, having reasonable ground for forming that belief, the Court may presume the dispatch of that letter according to the usual course of business.

What to be prima facie *proof of receipt of letter.*

LI. Any book proved to have been kept for marking the dispatch and receipt of letters, containing an entry of the dispatch of a letter, and an acknowledgment of the receipt of such letter, shall, on proof that such entry was made in the usual course of business, be *prima facie* evidence of the receipt of such letter.

Repeal of part of Section VI. of Act XV. of 1852.

LII. So much of Section VI. of Act XV. of 1852 as provides that every such application as therein mentioned shall be made before issue joined in any such action, or twenty-one days before the trial or hearing of any other legal proceeding as therein mentioned, is hereby repealed.

Extension of Section XVI. of Act VI. of 1854.

LIII. The provision contained in the 16th Section of Act VI. of 1854, that affidavits of particular witnesses, or affidavits as to particular facts or circumstances, may, by consent of the parties, or by leave of the Court obtained upon notice, be used in the hearing of any cause on the Equity side of the Supreme Courts, shall extend to all civil actions, suits and proceedings on all sides of the Courts.

Extension of Section XVII. of Act VI. of 1854.

LIV. So much of the 17th Section of the same Act as provides that, upon the hearing of any motion, petition or other proceeding in any of the said Supreme Courts, the Court may, upon the application of any of the

parties thereto, or of its own accord, require and enforce the attendance and oral examination before itself of any witness or of any party to the suit, and may also require and enforce the production of any document or documents, and may direct the costs of the attendance and examination of such witness or party to be paid by such of the parties to the suit, or in such manner as it may think fit, shall extend to all civil actions, suits and proceedings on all sides of the said Court.

Section XXXIII. of Act VI of 1854 extended.

LV. The 33rd Section of the Act No. VI. of 1854, which applies only to proof of accounts on the Equity side of the said Supreme Courts, shall extend to and embrace all accounts directed to be taken on any side of the said Courts.

Proof of official documents.

LVI. Whenever, by any Statute or Act, Regulation or Ordinance now in force, or any Statute or Act to be hereafter in force, any Certificate, certified copy, or other documents, shall be receivable in evidence of any particular in any Court of Justice, the same, if it is substantially in the form and purports to be executed in the manner directed by the Statute, Act, Regulation, or Ordinance which makes it evidence, shall be *prima facie* evidence, where it is rendered admissible, without proof of any seal, stamp, signature, character or authority, which it is directed to have, or from which it is directed to proceed.

No new trial for rejection or improper reception of evidence.

LVII. The improper admission or rejection of evidence shall not be ground of itself for a new trial or reversal of any decision in any case, if it shall appear to the Court before which such objection is raised, that, independently of the evidence objected to and admitted, there was sufficient evidence to justify the decision, or that, if the rejected evidence had been received, it ought not to have varied the decision.

Act not to render inadmissible evidence now admitted in the Company's Courts.

LVIII. Nothing in this Act contained shall be so construed as to render inadmissible in any Court any evidence which, but for the passing of this Act, would have been admissible in such Court.

ACT No. III. OF 1855.

Passed on the 2nd of February 1855.

An Act for the better prevention of Desertion from the Indian Navy.

Whereas it is expedient to amend and extend the laws in force

Preamble.

for apprehending and detaining deserters from the Indian Navy and for punishing persons who aid and encourage such desertion, It is hereby enacted as follows :—

Repeal of Article 4 of Bombay Rule, Ordinance, and Regulation of July 1820.

I. Article 4 of Rule, Ordinance, and Regulation for the Port of Bombay, passed by the Governor in Council and registered in the Court of the Recorder on the 11th day of July 1820, is hereby repealed in so far as it relates to Seamen of the Indian Navy.

Penalty for instigating desertion from the Indian Navy or concealing deserter.

II. Whoever, directly or indirectly, instigates or procures any Officer, Seaman, or other person belonging to the Indian Navy to desert, or knowing that any Officer, Seaman, or other person belonging to the Indian Navy is about to desert, assists him in deserting; or knowing any Officer, Seaman, or other person belonging to the Indian Navy to be a deserter, harbours, conceals or assists in concealing such deserter, shall for every such offence be liable to a fine not exceeding one thousand Rupees.

Penalty on Master in certain cases, if a deserter be concealed on board his ship.

III. If it shall appear that a deserter has been concealed on board any Merchant Vessel, and that the Master or person in charge of such Vessel for the time being, though ignorant of the fact of such concealment, might have known of the same but for some neglect of his duty as such Master or person, or for the want of proper discipline on board his Vessel, such Master or person shall be liable to a fine not exceeding five hundred Rupees. Provided always that no conviction for such minor offence as is lastly hereinbefore described, shall be lawful unless the same shall be stated in the charge which the party is called upon to answer, and in such charge it shall be lawful to state in the alternative that the party has either knowingly harboured or concealed a deserter on board his vessel, or has, by neglect of duty, or by reason of the want of proper discipline on board the Vessel, allowed such deserter to be so concealed.

Charge may be in the alternative.

Jurisdiction.

IV. Any person, whether a European British subject or not, who shall be guilty of an offence punishable under this Act, shall be punishable for the same by any Justice of the Peace for any of the Presidency Towns of Calcutta, Madras and Bombay, or for any of the Settlements of Prince of Wales' Island, Singapore and Malacca, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate in any Port within the territories

of the East India Company, within whose jurisdiction the offence may have been committed, or such person may have been apprehended or found, whether the offence shall have been committed within the local limits of the jurisdiction of such Officer or not; and any person hereby made punishable by a Justice of the Peace, shall be punishable on summary conviction.

Conviction to be quashed on merits only; form of conviction, &c.

V. No conviction, order, or judgment of any Justice of the Peace shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds; but the depositions taken or a copy of them shall be returned with the conviction, order, or judgment, in obedience to any writ of *certiorari;* and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Saving of proceedings under Act No. XIV. of 1849.

VI. Nothing in this Act contained shall prevent any Justice of the Peace, Magistrate, or other Officer having authority in that behalf, from committing for trial any person who shall be charged with an offence punishable under Act No. XIV. of 1849, or any other Act hereafter to be in force, notwithstanding that such offence may be also punishable under this Act. Provided that no proceedings shall have been had against such person in respect of the same offence under this Act.

Proviso.

Commander in-Chief of Indian Navy, &c., may issue Warrants for apprehension of deserters.

VII. Whenever, on information given on oath or solemn affirmation, where by law a solemn affirmation may be used instead of an oath, to the Commander-in-Chief of the Indian Navy, or other person who shall be in the performance of the duties of Superintendent of the Indian Navy, or his Deputy, or, in their absence, to the Senior Officer of the Indian Navy at any Port or place within the territories of the East India Company, which oath or affirmation the several persons above-named shall severally under this Act have power to administer, or whenever on such information as aforesaid, given to any Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, having jurisdiction within such Port or place, there shall appear reason to suspect that any Officer, Seaman, or other person belonging to the Indian Navy, who may have deserted or be

absent without leave, is on board any Ship, Vessel, or Boat, or is concealed on shore at any such Port or place within the territories of the East India Company, it shall be lawful for such Commander-in-Chief of the Indian Navy, or person performing the duties of Superintendent of the Indian Navy, or his Deputy, or such Senior Officer or Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate as aforesaid, to issue a Warrant authorizing the person or persons to whom such Warrant may be addressed to enter into and search, at any time of the day or night, any such Ship, Vessel, or Boat, or any house or place on shore, and to apprehend any such Officer, Seaman, or person belonging to the Indian Navy, and to detain him in custody in order to his being dealt with according to Law.

Warrant to whom to be addressed, and by whom to be executed.

VIII. The Warrant to be issued under the preceding Section may be addressed to any persons in the Indian Navy, or to all Constables, Peace Officers, and other persons who may be bound to execute the Warrant of any Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, and acting in the execution of this Act; and all such persons shall be bound to execute, perform, and obey such Warrant.

Persons apprehended how to be dealt with, &c.

IX. Every person who shall be apprehended as a deserter from the Indian Navy, under any Warrant under the 7th Section of this Act, shall be brought without delay before a Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate in or near the place wherein such person shall have been arrested, who shall examine such person, and if he shall be satisfied, either by the confession of such person or the testimony of one or more witness or witnesses, or by his own knowledge, that such person is a deserter from the Indian Navy, shall cause him to be placed on board some Vessel of the Indian Navy, in order that he may be dealt with according to Law; and if there shall be no such Vessel in or near the place wherein such deserter shall have been apprehended, shall cause such deserter to be conveyed to the nearest or most convenient prison, and to be detained there until he can be placed on board a Vessel of the Indian Navy for such purpose as aforesaid; and in every case in which any person shall be committed to prison as aforesaid, the committing Magistrate shall transmit an account thereof to the Commander-in-Chief of the Indian Navy or to the Officer commanding some

Vessel of the Indian Navy, and every person so committed to prison shall be entitled to his discharge from custody under such commitment, unless within three months from the date thereof he shall, on the requisition of the said Commander-in-Chief or such other Officer as aforesaid, have been placed on board one of the Vessels of the Indian Navy, in order that he may be dealt with according to Law.

ACT No. V. OF 1855.

Passed on the 17th of February 1855.

An Act to assimilate the process of Execution on all sides of Her Majesty's Supreme Courts, and to extend and amend the provisions of Act XXV. of 1841.

Preamble.

WHEREAS it is expedient to make the process of execution on all sides of Her Majesty's Supreme Courts as near as may be the same; and also to extend and amend the provisions for giving effect to the decrees and orders of Her Majesty's Supreme Courts in certain cases, which are contained in Act No. XXV. of 1841; It is enacted as follow:—

Process of contempt not to issue to compel performance of decree, &c. to pay money or to execute a deed &c.

I. No process of contempt shall issue to compel the performance of so much of any judgment, decree, sentence, or order, either decretal or interlocutory, made by any of Her Majesty's Supreme Courts, as directs any person to pay any money or costs, or to execute any conveyance or other deed or instrument, or to make any transfer or surrender, or to do any act which a constituted attorney of such person, if ordered by the Court to do the same for his principal, would have the means of performing.

Party in default, after judgment or order to pay money or costs, to be proceeded against by Ca. Sa. or Fi. Fa. &c.

II. Where any person is liable to pay any money or costs upon a judgment recovered against him in any of the said Courts, or has made default in the payment of any money or costs which by any order, decree, or sentence made in any proceeding by any of the said Courts on any side thereof, he has been ordered to pay, execution may be issued either against his person by a writ in the nature of the ordinary writ of *Capias ad Satisfaciendum*, or to levy such money or costs out of his property by a writ of *Fieri Facias or Venditioni Exponas*, according to the course and practice of the Court as the same shall be settled by the rules and orders to be made for giving effect to the provi-

sions of this Act. Provided that nothing herein contained shall extend to a fine unpaid for a criminal offence, or alter the mode of compelling the payment of such fine.

Proviso.

III. The Sheriff shall pay the money which he may levy under any execution, either to the party named in the writ in satisfaction of his demand, or into court according to the exigency of the writ which shall be in conformity with the order under which the money is payable.

Sheriff how to deal with money levied.

IV. Whenever any person has been directed by any judgment, decree, sentence, or order of any of the said Courts to execute any conveyance, deed, or instrument, or to make any transfer or surrender; or to do any act which a constituted attorney of such person, if directed by the Court to do the same for his principal, would have the means of performing, and such person has refused or neglected to obey such direction, or has evaded compliance therewith, either by absenting himself in order to avoid service of the judgment, decree, sentence, or order, wherein such direction is contained, or by any other means; it shall be lawful for the Court by which such direction has been given, whether the person disobeying or evading compliance with such direction is in custody or not, upon application made to the said Court for that purpose, and upon proof to its satisfaction of such default or evasion as aforesaid, to order or appoint the Registrar, Master, or other Officer of the said Court to execute such conveyance, deed, or instrument, or to make such transfer or surrender, or to do such other act as aforesaid, for and in the name of the person by whom the same ought to have been executed, made, or done; and every conveyance, deed, and instrument which shall have been executed, and every transfer and surrender which shall have been made, and every other act which shall have been done by an Officer of Court under the authority of this Act, shall in all respects have the same force and validity as it would have if it had been duly executed, made or done by the persons for and in whose name it shall have been so executed, made, or done.

Power to the Court to appoint an Officer to execute instrument, or to do any act for the person who has been ordered but has failed to execute or do the same.

V If it shall appear to any of the said Courts, upon an application made to it under this Act, that it can safely dispense with the formal execution of any conveyance, deed, or instrument which the person directed to execute the same has failed to execute, or with the signature of any writing required for

Or in certain cases to dispense with the execution of an instrument, or the signature of a writing.

the formal performance of any act required to be done but omitted to be done by the person directed to do the same, it shall be lawful for the said Court, in lieu of ordering its Officer to execute the said conveyance, deed, or instrument, or to sign the said writing, by its order to declare that such conveyance, deed, instrument, or writing shall be as valid and effectual to all intents and purposes without the execution or signature of the person directed to execute or sign the same, as it would have been if he had duly executed or signed the same.

The Court empowered to enforce the delivery of any immoveable property or any specific chattel, or the deposit of any books, papers, or other articles or things, by seizure.

VI. When any person has been directed, by any judgment, decree, sentence, or order of any of the said Courts to deliver up possession of any immoveable property or of any specific chattel or security, or to deliver to any person or persons, or to deposit in Court or elsewhere any books, papers, writings, or other articles or things, and has refused or neglected to obey such direction, or has evaded compliance therewith, either by absenting himself to avoid service of the said judgment, decree, sentence, or order, or by any other means, it shall be lawful for the Court by which such direction has been given, whether such person is in custody or not, on proof of such default or evasion as aforesaid, to issue a writ or writs to the sheriff, directing him either to put the party therein named into possession, or to seize and take such chattel, security, books, papers, writing, or other articles or things, and to deal with the same according to the exigency of the writ, which in all cases shall be conformable to the order, to compel the performance whereof the same is issued. But nothing herein contained shall authorize the sheriff to disturb the *bonâ fide* possession of any person other than the person against whom such order is made.

Proviso.

Repeal of 1st and 2nd Sections of Act XXV. of 1841

VII. The first and second Sections of Act No. XXV. of 1841, except as to all proceedings which shall have been had or commenced thereunder before this Act comes into operation, are hereby repealed.

Power reserved to issue process of contempt to compel obedience to orders which cannot be otherwise enforced.

VIII. Nothing in this Act contained shall prevent any of the said Courts from issuing process of contempt, according to its present course of practice, on its Equity side against the person of any party who has been ordered to do any act other than the payment of money, or costs, or the execution of any conveyance, deed, or other instrument, if obedience to such order cannot otherwise

be enforced, or against the person of any party who has committed a breach of any injunction; and the Court may issue such process of contempt on any of its sides, and in such cases shall have and may exercise all powers which it now has touching the commitment, detention, or discharge of any person taken under process of contempt issued on its Equity side.

Court may frame writs of execution.

IX. It shall be lawful for Her Majesty's Supreme Courts to frame such new or altered writs of execution as they shall deem necessary or expedient for giving effect to the provisions hereinbefore contained, and by the Rules or orders to be made under this Act, to regulate the mode of issuing and executing such writs of execution.

Interpretation Clause.

X. The words "person" and "party" as used in this Act shall be understood to include any body corporate, and though used so as to import the singular number or the masculine gender only, shall be understood to include several persons as well as one person, and females as well as males, unless there be something in the context repugnant to such construction; and the term "Her Majesty's Supreme Court" shall be understood to include the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca.

Commencement of the Act.

XI. This Act shall take effect from the 1st day of May next.

ACT No. VI OF 1855.

Passed on the 17th of February 1855.

An Act to extend the operation of, and regulate the mode of executing Writs of Execution in Her Majesty's Supreme Courts of Judicature.

Preamble.

WHEREAS it is desirable to extend the operation of, and regulate the conduct of writs of execution out of Her Majesty's Supreme Courts in certain cases, It is enacted as follows:—

Sheriff empowered under any writ of fieri facias *issued on any side of Supreme Court to seize and sell immoveable property.*

I. Clause 1. Under any writ of *fieri facias* issued out of any of Her Majesty's Supreme Courts, on any side of the Court, may be seized and sold any lands, houses or other immoveable property of the party against whose effects such writ issues, whether his estate or interest therein be legal or equitable.

When property is in possession of judgment debtor, Sheriff to put purchaser in possession.

Clause 2. The Sheriff under any such writ may put the purchaser in possession of such of the lands, houses or other immoveable property sold under such writ, of which the judgment debtor is in the actual possession, and of which an actual delivery can be made.

When property is not in possession of judgment debtor, Sheriff not to seize but to sell debtor's interest

Clause 3. If the lands, houses or other immoveable property liable to be sold under such writ, be in the possession of any person other than the judgment debtor, the Sheriff shall not seize such property, but shall sell and convey all the right, title and interest of the debtor; and such conveyance shall pass the same interest to the purchaser as if the same had been executed by the debtor.

Effect of conveyance.

Clause 4. In such last mentioned case if the property shall be situate beyond the local limits of the jurisdiction of such Court, the Sheriff shall notify such sale to the Judge of the District, who shall cause notice of the same to be officially proclaimed, in like manner as if the sale had been effected under a decree of his own Court.

Sale when to be notified to Judge of District
Proclamation of same.

Clause 5. In any case of intended sale of immoveable property beyond the local limits of the jurisdiction of such Supreme Court, the Sheriff shall cause a notice specifying the time and place of the intended sale, to be stuck up in some conspicuous place in the office of the Collector of the district within which such property is situate and also at the Mal (*a*) Cutcherry of the estate, if any; otherwise, on some conspicuous part of the property to be sold

Notice of sale when to be published in the office of Collector, &c.

The number of days between the publication of such notice and the sale shall not be less than fourteen days, if the property be not distant more than 100 miles from the Supreme Court; if the distance shall exceed 100 miles, the number of days shall be increased by an additional day for every 50 miles of such excess of distance. Provided that the want of such notice or any irregularity in respect thereof, shall not vitiate the sale in the hands of a *bona fide* purchaser.

Length of time for publication of notice

Proviso.

II. If any lands, houses or other immoveable property be seized or liable to be sold under any such writ, it shall be lawful for the Court, on application to it on behalf of the execution debtor or of any one of several execution debtors, if the Court shall be satisfied

In what case judgment debt may be raised by mortgage instead of sale

(*a*) *Mal*, (corruptly *Maul*, *Mhal* &c) in this connection signifies Revenue

that there is reasonable ground to believe that the amount of the judgment may be raised by mortgage of the estate, to postpone the sale for a term not exceeding one month to enable the defendant to raise the amount, and to direct that the money ordered to be levied by such execution shall be raised by mortgage instead of sale of such lands, houses or other immoveable property, upon such terms as to the payment of interest upon the judgment or otherwise as the Court may think fit, and in such case to give all necessary directions for the execution of such mortgage.

Sheriff empowered under any such writ of fieri facias *to seize money, bank notes, &c*

And to pay money or bank notes to execution creditor

And with the order of the Court to endorse over, and without such order to hold cheques, bills of exchange &c

And to sue in his own name for amount secured by bills of exchange &c

Or for debts

III Under any such writ of *fieri facias* may also be seized money, bank-notes, cheques, bills of exchange, promissory notes, hoondees, Government securities, bonds, or other securities for money and also debts belonging to the said person, and the Sheriff or other officer having the execution of the writ shall be at liberty to pay or deliver over to the party suing out such execution, any money or bank-notes which shall so be seized, or a sufficient part thereof, and shall, with the order of the Court, endorse over or transfer, and without such order, shall hold any such cheques, bills of exchange, promissory notes, hoondees, bonds, or other securities for money as a security or securities for the amount by such writ of *fieri facias* directed to be levied or so much thereof as shall not have been otherwise levied and raised, and may, where he retains the same, sue in his own name as such Sheriff or officer, for the recovery of the sum or sums secured thereby, or for any debt seized as aforesaid when the time of payment thereof shall have arrived, and the payment to such Sheriff or other officer, or to the party entitled under such endorsement or transfer, by the party liable, with or without suit, or the recovery and levying execution against the party so liable, shall discharge him to the extent of such payment or of such recovery and levy in execution as the case may be, from his liability on any such cheque, bill of exchange, promissory note, hoondee, bond, security, and debt; and such Sheriff or other officer shall pay over to the party suing out such writ, the money so to be recovered, or such part thereof as may be sufficient to discharge the amount by such writ directed to be levied, and if, after satisfaction of the amount so to be levied together with Sheriff's poundage and all lawful charges and expenses, any surplus shall remain in the hands of such Sheriff or other officer, the same shall be

paid to the party against whom such writ shall be so issued, unless the same is duly attached in the hands of such Sheriff or other officer. Provided that no Sheriff or other officer shall be bound to sue any party liable upon any such cheque, bill of exchange, promissory note, hoondee, bond, security, or debt, unless the party suing out such execution shall give security to the Sheriff for indemnifying him from all costs and expenses to be incurred in the prosecution of such action, or to which he may become liable in consequence thereof; the nature and amount of such security to be determined, in case they cannot agree, by the proper officer of the Court in which such action shall be brought, or, if the Court shall so order, by some other person to be appointed by the Court for such purpose; and the expense of preparing and executing such security shall be deducted out of any money to be recovered in such action, and the net proceeds only in this and other cases provided for by this Act shall be considered as received in satisfaction of the debt due to the execution creditor.

Proviso as to indemnity for Sheriff.

IV. If the Sheriff or other officer under any writ of *fieri facias* shall seize any Government security standing in the name of, or belonging to the party against whose property such writ shall be issued, he shall have power to receive the interest due on such Government security whether specially endorsed or otherwise, and to sign a receipt for the same; and also to sell and dispose of such Government security through a broker at the market rate of the day; and if the endorsement of such party shall be required to transfer such Government security, the Sheriff or other public officer shall endorse the same thus, "A. B. by C. D. Sheriff;" and such endorsement shall be as effectual to pass the said Government security and to give a good title to the holder thereof as if the same had been endorsed by the party himself or his duly constituted attorney.

Sheriff empowered to receive interest on Government security seized by him.

And to sell, and where endorsement necessary, to endorse such security.

V. No debt shall be sold by the Sheriff under the process of the said Court, any Charter of any of the said Supreme Courts to the contrary notwithstanding; but the same shall be realized in the mode hereinbefore directed.

No debt to be sold by Sheriff.

VI. If any person against whom any writ of execution shall have issued, shall have any interest in any stock or shares in any public Company, whether incorporated or not, carrying on business in India and within the reach

Shares in public Company may be charged in execution.

of the process of the Court out of which such writ of execution has issued, it shall be lawful for the said Court or for any Judge thereof, on the application of the party who has sued out such writ of execution, to make an order *ex parte* that such interest in such stock or shares, on such of them or such part thereof respectively as the said Court or Judge shall think fit, shall stand charged with the payment of the amount due in respect of such writ of execution; and such order shall have the like effect and entitle the person in whose favor the same is made to the same remedies and priorities as a charge executed in favor of such person by the person against whom execution shall have been issued; and service or notice of such order upon or to the public Company whose stock or shares are the subject of such order, or upon or to any person claiming an interest in such stock or shares, shall have the like effect and shall entitle the person in whose favor such order is made to the same remedies against such public Company or such last mentioned person as notice of a charge executed of even date with such order by the person against whom execution shall have been issued in favor of the person at whose suit the same shall have been issued. Provided that nothing herein contained shall prevent the person against whom such order shall have been made or any other person affected thereby, from applying to the Court or Judge by whom such order has been made for its discharge on such grounds as may be just.

Proviso.

Property standing in name of any officer of Court.

VII. If such debtor shall have any interest in any property which shall be standing in the name of the Accountant General of the Court or of any other officer of the Court, or in the dividends, interest, or annual produce thereof, it shall be lawful for the Court or a Judge to make an order that the interest of the defendant in such property shall be applied in payment of such debt, and the Court or Judge shall have power to make such order as may be necessary to give full effect to the above provision.

Party arrested under a Ca Sa entitled to discharge on payment or tender of the amount of levy to opposite party, or his attorney or Sheriff or Gaoler

VIII. A plaintiff or defendant arrested under any writ of *capias ad satisfaciendum* issued upon any judgment, order, decree or sentence of any of the said Courts whereby money is ordered to be paid to any party, shall be entitled to his discharge from such arrest on payment or tender to such party or his attorney in the cause or to the Sheriff or Gaoler in whose custody such person may be under such writ, of the amount directed to be levied by such writ.

IX. A written order under the hand of the attorney in the cause by whom any writ of *capias ad satisfaciendum* shall have been issued, shall justify the Sheriff, Gaoler, or person in whose custody the party may be under such writ in discharging such party, unless the party for whom such attorney professes to act shall have given written notice to the contrary to such Sheriff, Gaoler, or person in whose custody the opposite party may be; but such discharge shall not be a satisfaction of the debt, unless made by the authority of the creditor; and nothing herein contained shall justify any attorney in giving such order for discharge without the consent of his client.

Written order of attorney issuing Ca. Sa., *sufficient for the discharge of a party by Sheriff or Gaoler, unless the client shall give written notice to the contrary.*

Attorney not justified in giving order for discharge without the consent of his client.

X. A Sheriff shall not be liable in an action for escape or other breach of duty, to pay damages beyond the amount of the loss which his breach of duty has really occasioned.

Sheriff not to be liable for escape, &c. beyond the amount of the loss really occasioned.

XI. A writ of execution sued out after the commencement of this Act, if unexecuted, shall not remain in force for more than one year from the date of such writ, unless renewed in the manner hereinafter provided; but a writ of execution, whether sued out before or after the passing of this Act, may, at any time before its expiration, be renewed by the party issuing it for one year from the date of such renewal, and so on from time to time during the continuance of the renewed writ, by being marked with the seal of the Court and with a memorandum, signed by the officer, of the date of the day, month and year of such renewal, or by such party giving a written notice of renewal to the Sheriff signed by the party or his attorney and bearing the like seal of the Court and memorandum signed by the officer as aforesaid; and a writ of execution so renewed shall have effect and be entitled to the same priority as the original writ would have had. Provided however that no writ of *habere facias possessionem* shall be renewed without the special leave of the Court or a Judge.

Writ of execution, if unexecuted, not to remain in force more than one year unless renewed.

But may be renewed from time to time.

Renewed writ entitled to same priority as its original.

Proviso as to writ of Habere.

XII. The production of a writ of execution or of the notice renewing the same, purporting to be marked with such seal and signed as aforesaid, showing the same to have been renewed according to this Act, shall be sufficient evidence of its having been so renewed.

Production of writ or of notice of renewal sufficient evidence of renewal.

XIII. All property of every kind that may be seized under a writ of *fieri facias*, issued from the said Supreme Courts respectively, may be seized also under a writ of sequestration duly issued from the same, and the seizure must in all cases be made in the mode directed by this Act as to seizures under writs of *fieri facias*, and any sum ordered by the Court to be realized by a sequestration, shall be realized in the same mode, and not otherwise, as if directed to be levied under a writ of *fieri facias*.

Under a writ of sequestration all property may be seized in like manner as under a fieri facias.

Sum ordered to be realized may be levied as under a fieri facias.

XIV. The words "person" and "party" as used in this Act, shall be understood to include any body corporate, and though used so as to import the singular number or the masculine gender only, shall be understood to include several persons as well as one person, and females as well as males, unless there be something in the context repugnant to such construction; and the term "Her Majesty's Supreme Courts," shall be understood to include the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca.

Interpretation clause.

ACT No. VII OF 1855.

Passed on the 17th of February 1855.

An Act to amend the law of Arrest on mesne process in Civil Actions in Her Majesty's Courts of Judicature, and to provide for the subsistence of Prisoners confined under Civil process of any of the said Courts.

WHEREAS it is expedient to amend the law of arrest in the Supreme Courts of Judicature at Fort William in Bengal, Fort St. George, and Bombay and in the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca: It is hereby enacted as follows:—

Preamble.

1. No person shall be arrested or held to bail upon mesne process in any action at law now pending or which shall be commenced in any of the said Courts, unless an order authorizing such arrest be made by the Court in which the action is pending or shall be commenced, or by one of the Judges thereof: and it shall be in the discretion of the Court or Judge in any case to grant or refuse an order.

No arrest upon Mesne Process without order of Court or Judge.

Granting of order to be discretionary.

No order for arrest to be made without affidavit of debt or damage to the amount of 200 Rupees and probable cause for believing.—

II. Provided that no such order shall be made unless the Court or Judge shall be satisfied by Affidavit of the plaintiff, or of some other person, that the plaintiff has a good cause of action against the defendant to the amount of two hundred Rupees or upwards either for debt or for damages, and in addition thereto, that there is probable cause for believing—

That defendant is concealing himself to avoid service of process, or is about to abscond. &c.

1.—That the defendant has absconded or is concealing himself for the purpose of avoiding service of the process of the Court, or that he is about so to do, or—

That he is removing his property to avoid process.

2.—That he has withdrawn or is about to withdraw himself or his property or effects, or some part thereof, from the jurisdiction of the Court, for the purpose of avoiding the process of the Court, or under such other circumstances as to induce the Court or Judge to believe that the ends of justice are likely to be defeated unless a Capias or Warrant of Arrest be issued against him, or—

That he has disposed or means to dispose of his property to defraud Creditors.

3.—That he has removed, concealed or disposed of his property or effects, or some part thereof, for the purpose of defrauding his creditors generally or the plaintiff in the action, or that he is about to do so.

Order for arrest in any stage of cause and against one of several defendants.

III. An order for arrest may be made, and a Capias or warrant may be issued thereon, in any stage of the cause before final judgment, and against one or more of several defendants.

Before making order, Court may examine plaintiff or other person.

IV. Previously to making such order, the Court or Judge may require the personal attendance of the plaintiff, and of any person who shall make an Affidavit for the purpose of obtaining such order, and of any other person whom the Court or Judge shall think fit to examine, and may examine them orally upon oath.

Copy of affidavit to be delivered to Sheriff and to be given to defendant at the time of arrest.

V. A copy of every Affidavit upon which such order shall be founded shall be delivered to the Sheriff with the Writ or Warrant to be issued in pursuance of the order, and shall be delivered to the defendant at the time of his arrest or detention under the Writ, otherwise the Court or Judge may order the defendant to be discharged.

VI. Any person arrested or detained upon any such Writ of Capias or Warrant of Arrest, may apply to the Court or to a Judge thereof for a rule or summons calling on the plaintiff to show cause why the person arrested should not be discharged out of custody, and the Court may make absolute or discharge such rule, and may direct the costs of the application to be paid by either party or may make such other order as to the Court shall seem fit; and in the case of a summons, a Judge shall make such order thereupon as he shall think fit. Provided that such rule shall be made absolute, or in the case of a summons an order for the defendant's discharge out of custody shall be made, in every case in which the Court or Judge shall be satisfied that the plaintiff, in any stage of the cause subsequent to the arrest, has been guilty of unreasonable delay in pleading or in bringing on for trial or argument any issue of fact or law, notwithstanding the delay may not be such as to entitle the defendant to sign judgment of Non Pross., or to apply for judgment as in case of a nonsuit; and provided also that any order made by a Judge under this Act may be discharged or varied by the Court on application made thereto by either party dissatisfied with the order.

Person arrested may apply to Court or Judge for his discharge

Person arrested to be discharged if plaintiff is guilty of delay after arrest.

Judge's order may be discharged &c. by Court.

VII. If any motion or application for the discharge of a defendant be made upon Affidavit, but not otherwise, the plaintiff may oppose the same by affidavits in addition to that upon which the order for the arrest was made.

If motion for discharge be made upon affidavit, plaintiff may oppose it by further affidavits.

VIII. The Court or Judge may order and compel the personal attendance at the hearing of any motion or summons of both or either of the parties, and also of any other person whom the Court or Judge shall think fit to examine, and may examine such person or persons orally upon oath, or may allow him or them to be examined and cross-examined upon oath, and the Sheriff or Gaoler shall be bound to bring before the Court or Judge any Prisoner detained in his custody on Civil process, whose attendance may be so ordered.

At the hearing of the motion, Court may compel attendance of the parties or witnesses.

Attendance of person in custody on Civil process.

IX. Every person now in custody upon mesne process issued out of any of the said Courts of Judicature for any debt or demand, and who shall not have filed a petition to be discharged under the laws in force for the relief of Insolvent Debtors in India, shall be entitled

Persons now in custody on mesne process how entitled to their discharge.

to his discharge at the expiration of one month from the time of the passing of this Act, upon entering a common appearance to the action:

Proviso.

Provided nevertheless, that every such prisoner shall be liable to be detained, or after such discharge to be again arrested by virtue of any writ of Capias or Warrant of Arrest issued in pursuance of the provisions of this Act.

Deposit of subsistence money before arrest on mesne or final process or by attachment—amount and application thereof.

X. *Clause* 1.—The person at whose suit any such mesne process or any writ of execution for the arrest of a defendant or any writ of attachment for the arrest of any person for the non-payment of money in the nature of Civil processes shall be issued out of any of the said Courts, shall, previously to the arrest being made, deposit with the Sheriff or other officer to whom such mesne process or writ shall be delivered for the purpose of executing the same, a sum of money sufficient to provide for the subsistence of the defendant for the period of thirty days at the rate of four annas a day, which sum or so much thereof as shall be necessary shall be applied by the Sheriff or other officer for the subsistence of the person arrested from the time of the arrest until he shall be lodged in gaol, and the balance, if any, shall be deposited by such Sheriff or other officer with the keeper of the gaol to which the person arrested shall be committed.

Sheriff to give plaintiff notice of arrest.

Clause 2.—The Sheriff or such other officer by whom an arrest shall be made by virtue of any such writ or process shall, before or forthwith after the defendant shall be lodged in gaol, give notice of the arrest and of the date on which the same was made to the plaintiff or his attorney.

Further deposit of subsistence money after the arrest and during detainer.

Clause 3.—The person at whose suit such mesne process, writ of execution or attachment shall be issued shall, at or before the end of thirty days from the date of the arrest, or within a reasonable time after he shall have had notice of the arrest, if he shall not have had notice thereof within such period of thirty days, deposit with the Sheriff or with the keeper of the prison in which the person arrested shall be lodged, a further sum at the rate aforesaid for the subsistence of the prisoner for the next ensuing thirty days, and shall continue to make a similar deposit in advance at or before the end of such period of thirty days and of every subsequent period of thirty days during which the prisoner shall be detained in custody, and for every such deposit the Sheriff or keeper of the gaol or other officer as the case may be shall give a receipt for the same dated on the day on which the money shall be paid.

Receipt for deposit.

Rate of deposit may be varied by Court out of which writ issues.

Clause 4.—It shall be lawful for the Court out of which any such writ shall issue or for any Judge thereof to reduce the rate at which deposits are above ordered to be made, so that the rate ordered be not less than one anna a day, or in the case of illness or other special cause to order the deposit to be increased to a rate not exceeding eight annas a day; and every such order may from time to time be revised and altered by the Court or any Judge thereof on sufficient grounds being shown.

Deposit must be made before arrest.

Person arrested to be discharged if subsequent deposit not duly made.

Clause 5.—If the deposit required to be made previously to the arrest be not made, no arrest shall be made. If any deposit hereby required to be made after the arrest be not made on or before the day on which it ought to be made, the Court may, upon the application of the prisoner, order him to be discharged out of custody.

Such discharge of a prisoner in execution not to affect his liability.

Clause 6.—If any prisoner in execution be discharged out of custody by reason of a failure to make such deposit as aforesaid, the imprisonment shall not extinguish or affect his liability to pay the amount of any sum of money for which he was arrested, or to prevent any execution from being issued against his property.

Provisions of these Clauses to whom applicable.

Clause 7.—The provisions of this Act are to be held applicable to all persons at present in confinement under Civil process, so far as relates to the deposit to be made in future by the parties at whose instance they are confined and to their immediate discharge on failure to make such deposit on or before the day on which it becomes due—The first deposit to be made within thirty days after the passing of this Act.

Deposit to be applied for subsistence of prisoner.

Clause 8.—The money so deposited shall be employed for the subsistence of the prisoner.

Amount spent in subsistence of prisoner obtained on mesne process to be costs in the cause.

Clause 9.—The amount spent in providing subsistence for a prisoner detained upon mesne process shall be costs in the cause.

Amount spent in subsistence of prisoner detained in execution

Clause [illegible]—The amount spent in providing subsistence for a prisoner detained in execution shall be added to the amount of the judgment, and the prisoner shall be liable to be detained in execution for the amount,

to be added to the judgment.

in the same manner as if such amount had been included in the Judgment and Writ of execution.

Amount spent in subsistence of person detained under attachment shall be deemed part of the demand.

Clause 11.—The amount spent in providing subsistence for any person detained under any such writ of attachment as aforesaid, shall be deemed part of the demand in respect of which the attachment was issued, and shall subject the prisoner to the same liability as if the attachment had been issued for the non-payment thereof to the person making the deposit.

Return of unspent deposit money.

Clause 12.—All money deposited as aforesaid which shall not have been spent at the time of the prisoner's discharge from custody, shall be returned to the person who made the deposit.

Effect of order for discharge of prisoner.

XI. Any order of the Court or of a Judge for the discharge of a prisoner under the provisions of this Act, shall be a sufficient authority to the Sheriff and Gaoler for such discharge, so far as concerns the action or suit to which such order relates. Provided that, when an order shall be made for the discharge of a prisoner upon his entering a common appearance, such discharge shall not be made until a certificate shall be produced to the keeper of the prison from the Officer of the Court with whom appearances are entered, to the effect that an appearance has been entered according to the terms of the order.

Proviso.

Keeper of prison &c. when to report to Court the name of prisoner—proceedings thereupon.

XII. It shall be the duty of the Sheriff and of the keeper of every prison in which any person shall be confined under any such process as above mentioned, to report to the Court out of which the process issued, the name of every prisoner confined under such process who shall appear to be unable to maintain himself in prison or who shall complain that he has been arrested without cause, and it shall be lawful for the Court or a Judge upon any such report to cause the prisoner to be forthwith brought before them, or to make such other order as may seem fit; and the Sheriff shall be bound to serve any rule, summons or order made under this Act which the Court or Judge shall order him to serve.

Service of rule &c. by Sheriff.

Order under this Act to be sufficient justification to Sheriff, &c.

XIII. Any rule or order made in pursuance of the provisions of this Act shall be a sufficient justification for any Sheriff, Gaoler or other officer for any act which he may do in pursuance thereof.

Construction of Act.

XIV. In the construction of this Act, the word "Affidavit" and the word "Oath" shall include affirmation in cases where "Affirmation" is allowed instead of an oath, and unless there is any thing in the context repugnant to such a construction; words in the singular number shall include the plural, and words in the masculine gender shall include females.

Act not to affect rules of Court not inconsistent herewith or provisions of Insolvent Debtor's Act.

XV. Nothing in this Act is intended to alter or affect any rule in force in any of the said Courts not inconsistent herewith or any of the provisions of the Act in force for consolidating and amending the law relating to Insolvent Debtors in India.

Equivalents for dollars and cents in the application of Act to the Straits Settlement.

XVI. In the application of this Act in the Settlement of Prince of Wales' Island, Singapore and Malacca, a dollar shall be deemed equal to two rupees and one-fifth of a rupee and three cents shall be deemed equal to one anna.

ACT No. VIII. OF 1855.

Passed on the 17th of February, 1855.

An Act to amend the law relating to the office and duties of Administrator General.

Preamble.

Whereas it is expedient to amend the law relating to the office and duties of Administrator General, it is enacted as follows;—

Designation of the Administrators General in the three Presidencies.

1. In each of the Presidencies of Fort William in Bengal, Fort St. George and Bombay, there shall be an Administrator General. The said Administrators General shall be called respectively the Administrator General of Bengal, the Administrator General of Madras, and the Administrator General of Bombay.

Appointment, suspension and removal of Administrators General.

II. Such officers shall be appointed and may be suspended or removed by the authorities hereinafter mentioned respectively, that is to say,

The Administrator General of Bengal, by the Governor General of India in Council.

The Administrator General of Madras, and the Administrator General of Bombay, by the Governments of those Presidencies respectively.

Continuance of existing incumbents.

III. Any person now holding the office of Administrator General at any of the said Presidencies, shall continue to hold the same, subject to the provisions of this Act.

Administrator General not to be deemed an officer of the Supreme Court.

IV. The Administrator General shall not be deemed in that capacity to be an officer of the Supreme Court.

Letters of administration granted to the Ecclesiastical Registrar of the Madras Supreme Court since Act II. of 1850, and Estates, &c. transferred to Administrator General.

V. All letters of administration, which, since the passing of Act No. II. of 1850, have been granted by the Supreme Court of Judicature at Fort St. George to the Ecclesiastical Registrar of that Court in virtue of his office, and all estates, effects and interests, books, papers and documents, now vested in, or belonging to the said Ecclesiastical Registrar, or under his control, by virtue of any such letters of administration, are by this Act transferred to and vested in him as Administrator General of that Presidency, and such letters of administration shall have the same effect in all respects as to any act hereafter to be done or required to be done under this Act as if they had been granted to him as Administrator General.

The present Administrator General of Madras may hold the office of Ecclesiastical Registrar.

Otherwise no Administrator General to be Ecclesiastical Registrar.

Administrator General not to hold any other office without sanction of Govt.

Proviso.

VI. The two offices of Ecclesiastical Registrar of the Supreme Court and Administrator General may be held by the present Administrator General at the Presidency of Fort St. George. With that exception, no person now holding the office of Administrator General, or hereafter to be appointed to such office, in any of the said Presidencies, shall hold the office of Ecclesiastical Registrar, nor, without the express sanction of Government, any other office, together with that of Administrator General. Provided that nothing in this Act shall prevent the present Administrator General of Bengal from holding the office of Receiver of the Supreme Court of Judicature now held by him.

Security to be given by Administrator General.

VII. Unless the Governor General of India in Council or the Government with the sanction of the Governor General of India in Council shall otherwise order every Administrator General hereafter to be appointed shall give security to the East India Company for the due execution of his office, for one lakh of Rupees by his own bond and for another lakh of Rupees, or for separate sums amounting together to one lakh of Rupees, by the

deposit of Government Securities or by the joint and several bond or bonds of two or more sureties to be approved by Government, or partly by such deposit and partly by such bond or bonds; provided that every Administrator General may, with the consent of Government, substitute either of the said two last mentioned kinds of security for another previously given for such last mentioned lakh or any part of it; and every Administrator General may, with the consent of Government, and shall from time to time, when required by Government so to do, cause fresh sureties to be substituted for any of those previously bound so far as the security shall relate to the due execution of his office for the time then to come.

Substitution of security or sureties.

VIII. No Administrator General shall be required by the Supreme Court to enter into any administration bond, or to give other security to the Court, on the grant of any letters of administration bond, or to give other security to the Court, on the grant of any letters of administration to him in virtue of his office.

No Security to be required by Supreme Court on grant of letters to Administrator General.

IX. Any letters of administration, or letters *ad colligenda bona*, which shall hereafter be granted by the Supreme Court of Judicature at any of the said Presidencies, shall be granted to the Administrator General of the Presidency, unless they shall be granted to the next of kin of the deceased; and it is hereby declared that the Administrator General of the Presidency shall be deemed to have a right to letters of administration in preference to that of any person merely on the ground of his being a creditor or friend of the deceased.

Administrator General entitled to letters of administration unless granted to next of kin of deceased.

Administrator General entitled in preference to creditor or friend.

X. The words "next of kin" shall be deemed throughout this Act to include a widower or widow of the deceased, or any other person who, by law and according to the practice of the Courts, would be entitled to letters of administration in preference to a creditor of the deceased. Provided that no Ecclesiastical Registrar or other Officer of any of the said Courts, shall, by reason of his office, be deemed entitled to any letters of administration on *ad colligenda bona*, or have any grant thereof made to him.

Construction of words "next of kin."

Ecclesiastical Registrar not to be entitled to administration by reason of his office.

XI. If any person, not being a Mahomedan or Hindoo, shall have died, whether within any of the said Presidencies or not, and whether before or after the passing of this Act, and shall, if a British subject, have

When administration of estates of persons other than Mahomedans or Hindoos is

to be by Administrator General.

left assets exceeding the value of five hundred Rupees within any of the said Presidencies, or any of the Provinces or places subject thereto, or shall, if not a British subject, have left personal assets exceeding five hundred Rupees within the local limits of the jurisdiction of the Supreme Court of Judicature at any of the said Presidencies, and no person shall, within one month after his death, have applied for probate of a will, or for any letters of administration of his estate, the Administrator General of the Presidency in which such assets shall be is hereby required, within a reasonable time after he shall have had notice of the death of such person, and of his having left such assets as aforesaid, to take such proceedings as may be necessary to obtain from the Supreme Court of Judicature at such Presidency letters of administration to the effects of such person, either generally or with a will annexed, as the case may require. Provided that assets, which any person may be entitled to collect, receive, or dispose of, by virtue of a certificate granted under Act XX. of 1841, shall not be deemed assets within the meaning of this Section.

Proviso as to assets under Act XX. of 1841.

XII. Whenever any person, whether a Mahomedan or Hindoo or not, shall die leaving assets within the local limits of the jurisdiction of Her Majesty's Supreme Court of Judicature at any of the said Presidencies, it shall be lawful for the Court upon the application of any person interested in such assets or in the due administration thereof, either as a creditor, next of kin or otherwise, or upon the application of a friend of any infant who may be so interested, or upon the application of the Administrator General, if the applicant shall satisfy the Court that danger is to be apprehended of the misappropriation of such assets, unless letters of administration of the effects of such person are granted, to make an order directing the Administrator General to apply for letters of administration of the effects of such person.

Upon death of any person leaving assets within local limits, the Court may, if assets are in danger, direct Administrator General to apply for administration.

XIII. Section XX. Act No. XIX. of 1841 is hereby repealed, except as to acts done and except as to any case in which an order shall have been made before the commencement of this Act.

Repeal of Section 20, Act XIX. of 1841.

XIV. Whenever any person whether a Mahomedan or Hindoo or not, shall have died leaving moveable or immoveable property within the local limits of the jurisdiction of any of Her Majesty's Supreme Courts of Judi-

Upon death of any person leaving property within local limits, Court may, if property

is in danger enjoin Administrator General to collect and hold the same and until right of succession or administration is ascertained.

cature, and such Court shall be satisfied that danger is to be apprehended of the misappropriation or waste of such property, before it can be ascertained who may be legally entitled to the succession to such property, or whether the Administrator General is entitled to letters of administration to such deceased person, it shall be lawful for the Court to authorize and enjoin the Administrator General to collect and take possession of such property and to hold or deposit or invest the same according to the orders and directions of the Court, and in default of any such orders or directions, according to the provisions of this Act so far as the same are applicable to such property; and the Administrator General shall be entitled to a commission of one per cent. upon the amount of all personal assets collected or received by him in pursuance of such order; and in case letters of administration of any such effects shall be afterwards granted to the Administrator General, the said commission of one per cent. shall be deemed a part payment of the commission payable to the Administrator General under the letters of administration. Any order of Court made under the provisions of this Section shall entitle the Administrator General to collect and to take possession of such property, and if necessary, to maintain an action for the recovery thereof.

Rate of Commission payable in such case

Administrator General may be Official Trustee under Act XVII. of 1843.

XV. The Administrator General of the Presidency may be appointed an Official Trustee under Act No. XVII. of 1843.

Probate to be granted to executor appearing in the course of proceedings taken by Administrator General to obtain administration.

XVI. If in the course of proceedings to obtain letters of administration under the provisions of Section XI. or Section XII. of this Act, any executor appointed by a will of the deceased shall appear according to the practice of the Court and prove the will and accept the office of executor, or if any person shall appear according to such practice and make out his claim to letters of administration as next of kin of the deceased, and shall give such security as shall be required of him by law or by the practice of the Court, the Court shall grant probate of the will or letters of administration accordingly, and shall award to the Administrator General his costs of the proceedings so taken by him, to be paid out of the estate, as part of the testamentary expenses thereof.

Costs of proceedings taken by the Administrator General to be paid out of the estate.

XVII. If no person shall appear according to the practice of the

If no executor or next of kin appear or give necessary security, letters of administration to be granted to Administrator General.

Court, and entitle himself to probate of a will, or to a grant of letters of administration, as next of kin of the deceased, or if the person who shall entitle himself to a grant of administration shall neglect to give such security as shall be required of him by law or according to the practice of the Court, the Court shall grant letters of administration to the Administrator General. Provided that, in the case of an application being made under Section XII. of this Act for letters of administration to the effects of a deceased Mahomedan or Hindoo, the Court may refuse to grant letters of administration to any person if it be satisfied that such grant is unnecessary for the protection of the assets, and in such case the said Court shall make such order as to the costs of the application as it shall think just.

Administration to effects of deceased Mahomedans or Hindoos not to be granted under Section XII unless required to protect the assets.

Costs of unnecessary application.

Administrator General not precluded from applying for letters of administration in any case within one month after death of deceased.

XVIII. Nothing in this Act is intended to preclude the Administrator General from applying to the Court for letters of administration in any case within the period of one month from the death of the deceased.

After revocation, letters of administration granted to Administrator General to be deemed as to him to have been voidable only.

XIX. If any letters of administration, which shall be granted to the Administrator General under the provisions of this Act, shall be revoked or recalled, the same shall, so far as regards the Administrator General and all persons acting under his authority in pursuance thereof, be deemed to have been only voidable, except as to any act done by any such Administrator General or other person as aforesaid, after notice of a will or of any other fact which would render such letters of administration void. Provided that no notice of a will or of any other fact which would render any such letters of administration void shall affect the Administrator General or any person acting under his authority in pursuance of such letters of administration, unless within the period of one month from the time of giving such notice proceedings be commenced to prove the will or to cause the letters of administration to be revoked, nor unless such proceedings be prosecuted without unreasonable delay.

Exception.

Proviso.

XX. If any letters of administration, which shall be granted under

What payments made or acts done by Administrator General prior to revocation of administration upon production of a will, shall be deemed valid.

this Act, shall be revoked upon the production and proof of a will, all payments made or acts done by or under the authority of the Administrator General in pursuance of such letters of administration prior to the revocation thereof, which would have been valid under any letters of administration lawfully granted to him with such will annexed, shall be deemed valid, notwithstanding such revocation.

In what cases Court may recall Administrator General's Administration & grant probate &c. to executor or next of kin.

XXI. If an executor or next of kin of the deceased, who shall not have been personally served with a citation, or had notice thereof, in time to appear in pursuance thereof, shall establish to the satisfaction of the Court a claim to probate of a will or to letters of administration in preference to the Administrator General, any letters of administration which shall be granted by virtue of this Act to the Administrator General, may be recalled and revoked, and probate may be granted to such executor, or letters of administration granted to such other person as aforesaid. Provided that no letters of administration, which shall be granted to the Administrator General, shall be revoked or recalled for the cause aforesaid, except in cases in which a will or codicil of the deceased shall be proved, unless the application for that purpose shall be made within one year after the grant to the Administrator General, and the Court shall be satisfied that there has been no unreasonable delay in making the application, or in transmitting the authority under which the application shall be made.

Unless a will is proved, application to revoke such administration must be made within one year and without needless delay.

Costs of obtaining administration, commission, &c., may, on revocation, be ordered by Court to be paid to the Administrator General out of the assets.

XXII. If any letters of administration, which shall be granted to the Administrator General in pursuance of this Act, shall be revoked, the Court may order the costs of obtaining such letters of administration and the whole or any part of any commission which would otherwise have been payable under this Act, together with the costs of the Administrator General in any proceedings taken to obtain such revocation, to be paid to or retained by the Administrator General out of any assets belonging to the estate.

After one year from grant of administration, distribution of

XXIII. Any payment or delivery of assets to any legatee, or to any person entitled in distribution, which shall be made by an Administrator General after the expiration of one year from the grant of the letters of

assets by Administrator General to be allowed against all claims of which he had no notice.

administration under which such payment or delivery shall be made, shall be allowed to the Administrator General as against all creditors and other claimants against the estate, of whose debts or claims he shall not have had notice before making such payment or delivery. Provided that nothing herein contained shall exempt the person to whom such payment or delivery shall be made, from any liability to refund to which he would otherwise be liable, and provided also that no notice of any debt or claim shall affect the Administrator General unless proceedings to enforce the debt or claim be commenced within one month after the giving of such notice and be prosecuted without unreasonable delay.

Person receiving payments liable to refund.

What to be notice of debt or claim.

Letters of administration to be granted to Administrator General in virtue of his office.

Authority given by such letters.

XXIV. All letters of administration, which shall be granted to any Administrator General in virtue of his office, shall be granted to him by his name of office, and all letters of administration heretofore granted to the Ecclesiastical Registrar or Administrator General officially, or which shall be granted to any Administrator General in virtue of his office, shall authorize the Administrator General for the time being of the same Presidency to act as administrator of the estate to which such letters of administration shall relate; and all estates, effects and interests, which, at the time of the death, resignation or removal from office of any Administrator General, shall be vested in him by virtue of such letters of administration, shall, upon such resignation or removal, cease to be vested in him, and shall vest in his successor in Office immediately upon his appointment thereto; and all books, papers and documents kept by such Administrator General, by virtue of his office, shall be transferred to, and vested in, his successor in office.

On death, &c. of Administrator General, estate, &c to vest in successor.

And office books to be transferred.

XXV. All actions, suits or other proceedings, which shall be commenced by or against any Administrator General, in his representative character, may be brought by or against him by his name of office, and no suit, action or other proceedings already commenced, or which shall be commenced, against any person as Administrator General, either alone or jointly with any other person, shall abate by reason of the death, resignation or removal, from office of any such Administrator General, but the same may, by order of the Court, and upon such terms as to the service of notices or otherwise as the Court may direct, be continued against

Administrator General to sue or be sued in his representative capacity by his name of office.

Suit not to abate by death, &c.

his successor immediately upon his appointment, in the same manner as if no such death, resignation, or removal had occurred. Provided that nothing hereinbefore contained shall render any such successor personally liable for any costs incurred prior to the order for continuing the action or suit against him.

Proviso.

XXVI. The Administrator General of each of the said Presidencies under any letters of administration which shall be granted to him in his official character, or under any probate which shall be granted to him of a will wherein he shall be named as executor by virtue of his office, and the Administrator General of Madras under any letters of administration which are vested in him by Section V. of this Act, shall be entitled to receive a commission, at the following rates respectively; *viz*:

Commission to be received by Administrators General.

The Administrator General of Bengal at the rate of 3 per cent. and the Administrators General of Madras and Bombay respectively at the rate of 5 per cent. upon the amount or value of the assets which they shall respectively collect and distribute in due course of administration.

XXVII. The commission to which the Administrator General of each of the said three Presidencies shall be entitled, is intended to cover not merely the expense and trouble of collecting the assets, but also his trouble and responsibility in distributing them in due course of administration. It is therefore enacted, that one-half of such commission shall be payable to and retained by such Administrator General upon the collection of the assets, and the other half thereof shall be payable to the Administrator General who shall distribute any assets in the due course of administration and may be retained by him upon such distribution. The amount of the commission lawfully retained by an Administrator General upon the distribution of assets shall be deemed a distribution in the due course of administration within the meaning of this Act.

What expenses, &c. commission is to cover.

How payable.

Commission retained to be deemed a distribution.

XXVIII. The Governments of the said Presidencies of Fort St. George and Bombay respectively, may, with the sanction of the Governor General of India in Council, from time to time, order the aforesaid rate of commission hereby authorized to be received by the Administrators General of those Presidencies respectively to be reduced and again to be raised. Provided that the commission so to be received shall not at any time exceed

Commission of the Administrators General of Madras and Bombay may be reduced and again raised.

Proviso.

five per cent. of the assets collected, and that no person now holding the office of Administrator General of either of the said Presidencies of Fort St. George or Bombay shall, by any such order, be deprived of the right to receive and retain for his own use a commission at the rate of three per cent. in respect of all assets collected and actually administered by him.

Administrator General to defray expenses of establishment and all other charges not expressly provided for.

XXIX. The Administrator General shall defray all the expenses of the establishment necessary for his office, and all other charges to which the said office shall be subject, except those for which express provision is made by this Act.

Commission or agency not to be charged by executor or administrator other than the Administrator General.

XXX. No person other than the Administrator General acting officially, shall receive or retain any commission or agency charges for anything done as executor or administrator under any probate or letters of administration, or letters *ad colligenda bona*, which have been granted by the Supreme Court of Judicature at Fort William in Bengal since the passing of Act No. VII. of 1849, or by either of the said other Supreme Courts of Judicature since the passing of Act No. II. of 1850, or which shall hereafter be granted by either of the said Courts; but this enactment shall not prevent any executor or other person from having the benefit of any legacy bequeathed to him in his character of executor, or by way of commission or otherwise.

Specific bequest in favor of executors not affected.

Administrator General to keep a separate account-book for each estate, to be open to inspection, &c. on payment of fee, &c.

XXXI. The Administrator General of each of the said Presidencies shall enter into books, to be kept by him for that purpose, separate and distinct accounts of each estate, and of all such sums of money, bonds and other securities for money, goods, effects and things, as shall come to his hands, or to the hands of any person employed by him, or in trust for him, under this Act, and likewise of all payments made by him on account of such estate, and of all debts due by or to the same, specifying the dates of such receipts and payments respectively, which said books shall be kept in the Administrator General's Office, and shall be open for the inspection of all such persons, practitioners in the said Courts and others, as may have occasion to inspect the same, at office hours, paying only such reasonable fee as hath been or shall be, from time to time, fixed by the Government and published in the official *Gazette* of the Presidency to which the same may relate.

Government may make and alter Rules and orders consistent with this Act

For custody of assets

For remittance of money.

For guidance of Administrator General.

XXXII. The Government shall have power, from time to time, to make and alter any general rules and orders consistent with the provisions of this Act, for the safe custody of the assets and securities which shall come to the hands or possession of the Administrator General, and for the remittance to the East India Company at their House in England of all sums of money which shall be payable or belong to persons resident in Europe, or in other cases where such remittances shall be required, and generally for the guidance and government of the Administrator General in the discharge of his duties; and may, by such rules and orders, amongst other things, direct what books, accounts and statements, in addition to those mentioned in this Act, shall be kept by the Administrator General, and in what form the same shall be kept, and what entries the same shall contain, and where the same shall be kept, and where and how the assets and securities belonging to the estates to be administered by such Administrator General shall be kept and invested or deposited, pending the administration thereof, and how and at what rate or rates of exchange any remittances thereof shall be made. Unless any such rules shall be made and published, the rules now in force in each of the said Presidencies, so far as the same are not inconsistent with this Act, shall be of the same force and effect as if the same had been made and published under this Act.

Proviso as to rules now in force.

Publication of orders, &c.

XXXIII. Such orders shall be published in the official *Gazettes* of the several Presidencies, and it shall be the duty of the several Administrators General to obey and fulfil the same, and the same shall be a full authority and indemnity for all persons acting in pursuance thereof.

Administrator General to furnish half yearly Schedules, &c.

XXXIV. The Administrator General of each of the said Presidencies shall, twice in every year—that is to say, on the first day of March, and on the tenth day of August, or on the first day on which the Supreme Court of Judicature at the Presidency shall be sitting after those days, or on such other days as the Government shall, by any rules or orders to be published as aforesaid, direct—exhibit and deliver, in open Court, a true Schedule showing the gross amount of all sums of money received or paid by him on account of each estate in his charge, and the balances during the period of six months, ending severally on the thirty-first day of December and thirtieth day of June next before the day of

delivering such Schedule, and a true list of all bonds or other securities received on account of each of the said estates during the same period; and also a true Schedule of all administrations, whereof the final balances shall have been paid over to the persons entitled to the same, during the same period, specifying the amount of such balances, and the persons to whom paid, which Schedules shall be filed of record in such Supreme Court of Judicature, and shall, within fourteen days afterwards, be published in the official *Gazette* of the Presidency by the said Administrator General; and copies thereof in triplicate shall be delivered by such Administrator General to the Secretary of the said Presidency, and shall be sent by the Governor thereof to the Court of Directors of the East India Company, in order that the said Court of Directors may, if they think fit so to do, order the same to be deposited at the East India House, London, for public inspection, and may cause notices to be published in the *London Gazette*, and other leading newspapers, that such Schedules are open to inspection there, or may make such other orders respecting the same as they may think fit.

Schedules to be filed and published.

XXXV. The Government shall, from time to time, appoint an auditor or auditors to examine the accounts of the Administrator General at the times of the delivery of the said Schedules, and also at any other time when the Government shall think fit.

Government to appoint Auditors.

XXXVI. The auditor or auditors shall examine the Schedules and accounts, and report to the Government whether they contain a full and true account of every thing which ought to be inserted therein, and whether the books which by this Act, are, or which by any such general rules and orders as aforesaid, shall be directed to be kept by the Administrator General, have been duly and regularly kept, and whether the assets and securities have been duly kept and invested and deposited in the manner prescribed by this Act, or which shall be prescribed by any such rules and orders to be made as aforesaid.

Auditors to examine Schedule, and report to Government.

XXXVII. Every auditor shall have power to summon as well the Administrator General as any other person or persons whose presence he may think necessary, to attend him from time to time; and to examine the Administrator General, or other party or parties, if he shall think fit, on oath or solemn affirmation, to be by him administered; and to call for all books, papers, vouchers and documents, which shall appear to him to be necessary for the purposes of the said refer-

Auditors to have power to summon witnesses and to call for books.

ence; and if the Administrator General or other person or persons when summoned shall refuse, or, without reasonable cause, neglect to attend or to produce any book, paper, voucher or document required, or shall attend and refuse to be sworn or make a solemn affirmation, when by law an affirmation may be substituted for an oath, or shall refuse to be examined, the Auditor or Auditors shall certify such neglect or refusal in writing to the Supreme Court of Judicature at the Presidency; and every person so refusing or neglecting shall thereupon be punishable, in like manner as if such refusal or neglect had been in contempt of the said Supreme Court.

Penalty for non-attendance.

XXXVIII. The costs and expenses of preparing and publishing the said Schedules and copies thereof, and of every such reference and examination as aforesaid, shall be defrayed by all the estates, to which such schedules or accounts shall relate, which costs and expenses, and the portion thereof to be contributed by each of the said estates, shall be ascertained and settled by the Auditor or Auditors, subject to the approval of the Government, and shall be paid out of the said estates accordingly by the Administrator General.

Costs of preparing Schedules, &c, how to be paid.

XXXIX. If upon any such reference and examination, the Auditor or Auditors shall see reason to believe that the said Schedules do not contain a true and correct account of the matters therein contained, or which ought to be therein contained, or that the assets have not been duly kept and invested or deposited in the manner directed by this Act, or which shall be directed by any such rules and orders as aforesaid, or that the Administrator General has failed to comply with the provisions and directions of this Act, or of any such rules and orders, he or they shall report accordingly to the Government.

Auditors to report specially to Government, if accounts appear not correct.

XL. The Government may refer every such report as last aforesaid to the consideration of the Advocate General for the Presidency, who shall thereupon, if he shall think fit, proceed summarily against the defaulter or his personal representative in the Supreme Court of Judicature in the Presidency, by petition for an account, or to compel obedience to this Act, or to such rules and orders as aforesaid, or otherwise as he may think fit, in respect of all or any of the estates then or formerly under the administration of such defaulter; and the said Advocate General shall have power to exhibit interrogatories to the said Administrator General, or other person

Proceedings upon such report.

or persons, defendants, who shall be bound to answer the same as fully as if the same had been contained in a bill filed for the like purpose; and the Court shall have power upon any such petition, to compel the attendance in Court of the defendant or defendants, and any witnesses who may be thought necessary, and to examine them orally or otherwise as the said Court shall think fit, and to make and enforce such order or orders as the Court shall think just.

Costs of reference &c. how to be defrayed.

XLI. The costs, including those of the Advocate General, and of the reference to him, if the same shall be directed by the Court to be paid, shall be defrayed either by the defendant or defendants, or out of the estates ratably as the said Court shall direct; and whenever any costs shall be recovered from the defendant or defendants, the same shall be repaid to the estates by which the same shall have been in the first instance contributed, and the Court shall have power to order the Administrator General, or other person or persons, defendants, to receive his or her costs out of the said estates, if it shall think just.

Orders of the Court to have same effect and to be executed in the same manner as decretal orders.

XLII. Any orders which shall be made by any of the said Supreme Courts shall have the same effect, and be executed in the same manner as decretal orders.

In what case Administrator General may grant certificate.

XLIII. Whenever any person, not being a Mahomedan or Hindoo, shall have died, whether within any of the said Presidencies or not and whether before or after the passing of this Act, and shall, if a British subject, have left personal assets within any of the said Presidencies or any of the provinces or places subject thereto, or shall, if not a British subject, have left personal assets within the local limits of the jurisdiction of the Supreme Court of Judicature at any of the said Presidencies, and letters of administration of his effects shall not be taken out for three months after his death, and the Administrator General of such Presidency shall be satisfied that such effects do not exceed in the whole five hundred Rupees, he may, if he shall think fit, at any time before administration of such effects shall be granted, grant to any person claiming to be entitled to a principal share of the effects of the deceased, certificates under his hand, entitling the claimant to receive the sums or securities for money therein severally mentioned, belonging to the effects of the deceased, to the value of any sum not exceeding in the whole five hundred rupees.*(a)*

(a) No Certificate can be granted in respect to money deposited in Government Savings' Bank. Vide Act XXVI of 1855, Section IV.

Administrator General not bound to grant certificate unless satisfied of claimant's title, &c

XLIV. The Administrator General shall not be bound to grant any such certificate, unless he shall be satisfied of the title of the claimant and of the value of the effects of the deceased, either by the oath, affidavit or solemn affirmation of the claimant (which oath, affidavit or affirmation the Administrator General is hereby authorized to administer or take) or by such other evidence as he shall require.

Certificate with receipt annexed to be a sufficient discharge.

XLV. Any such certificate, with a receipt annexed under the hand of the person to whom the certificate shall be granted, shall be a full discharge for payment or delivery to him or her of the money or security for money therein mentioned, to the person paying or delivering the same; but nothing in this Act shall preclude any executor or administrator of the deceased from recovering from the person receiving the same, the amount remaining in his hands, after deducting the amount of all debts or other demands lawfully paid or discharged by him in due course of administration; and any creditor or claimant against the estate of the deceased shall be at liberty to recover his debt or claim out of the assets received by such person, and remaining in his hands unadministered, in the same manner and to the same extent as if such person had obtained letters of administration to the estate of the deceased.

Proviso.

Administrator General not bound to take out administration on account of effects in respect of which he has granted certificate.

XLVI. The Administrator General shall not be bound to take out letters of administration to the estate of any deceased person on account of the effects in respect of which he shall grant any such certificate, but he may do so if he shall discover any fraud or misrepresentation made to him, or that the value of the estate exceeded five hundred rupees.

Fee for certificate

XLVII. For every such certificate the Adminstrator General shall be entitled to charge a fee calculated after the rate of three rupees in the hundred on the amount mentioned in the certificate.

Penalty for false swearing, &c.

XLVIII. Every person who, having been sworn, or having taken a solemn affirmation under this Act, shall wilfully give false testimony upon any examination authorized by this Act, shall be deemed guilty of perjury, and, if convicted, shall be liable to be punished accordingly.

Penalty for Trading.

XLIX. It is hereby declared to be a misdemeanour, punishable by fine and imprisonment, for any Administrator General to trade or traffic for his own benefit or for the

benefit of any other person or persons whomsoever, unless so far as shall appear to him to be expedient for the due management of the estates of which letters of administration shall be granted to him, and for the sole benefit of the several persons entitled to the proceeds of such estates respectively; but this exception is not to be construed to alter the civil liabilities of the Administrator General as trustee of such estates.

Exception.

Accumulation of interest in the hands of the Administrator General at Bombay to be transferred to the E. I. Company.

L. And whereas it appears from the books and accounts of the Administrator General of Bombay, that, on the thirtieth day of June 1851, there were in his charge Government Securities and cash, arising from accumulations of interest on estates heretofore administered by or in the charge of the Ecclesiastical Registrar of the Supreme Court of Judicature at that Presidency, over and above the amount of interest heretofore allowed on the administration of such estates, it is further enacted as follows:—The Administrator General of Bombay shall forthwith transfer and pay the said Government Securities, and cash balance, and any other Government Securities and cash which, at the time of the passing of this Act, shall or may be in his charge, or under his control in respect of such accumulations of interest, or any additions thereto, to the Accountant General and Sub-Treasurer of Bombay, to be carried to the account and credit of the East India Company, for the general purposes of Government; and the receipt of the Accountant and of the Sub-Treasurer of Bombay for any monies or securities so paid or transferred to them under the provisions of this Act, shall be a full indemnity and discharge to the Ecclesiastical Registrar and Administrator General for any such payment or transfer.

In the Madras & Bombay Presidencies, the proceeds of Estates unclaimed for 15 years to be transferred to the East India Company.

LI. The net proceeds of all estates in the official charge of the Administrator General of either of the Presidencies of Fort St. George or Bombay, and which now appear, or shall hereafter appear, from the official books and accounts of the Ecclesiastical Registrar and of the Administrator General of either of those Presidencies, or from the official books and accounts of either of those Officers, to have been in official custody for a period of fifteen years or upwards, without any claim thereto having been made and allowed, shall be transferred and paid to the Sub-Treasurer of the East India Company at Fort St. George and Bombay respectively, and be carried to the account and credit of the East India Company, for the general purposes of

Government; and the receipt of the said Sub-Treasurer and Accountant General shall be a full indemnity and discharge to the said Administrator General for any such payment or transfer. Provided that this Act shall not authorize any transfer or payment of any such proceeds as aforesaid, pending any suit already instituted, or which shall be hereafter instituted, in respect thereof.

Proviso.

LII. If any claim shall be hereafter made to any part of the securities, monies, or proceeds which shall be carried to the account or credit of the East India Company under the provisions of this Act, and if such claim shall be established to the satisfaction of the Administrator General and Accountant General to the Government of Fort St. George and Bombay, for the time being, respectively, the said Accountant General shall direct the Sub-Treasurer of the Presidency to pay, and the said Sub-Treasurer shall thereupon pay, out of the monies of the East India Company in his custody, to the claimant, the amount of the principal so carried to the credit and account of the said East India Company, or so much thereof as shall appear to be due to the claimant. If the claim shall not be established to the satisfaction of the said Administrator General and Accountant General, the claimant may apply by petition to the Supreme Court at the Presidency against the East India Company and Administrator General of the Presidency for the time being, and after taking evidence, either orally or on affidavit, in a summary way as the said Court shall think fit, the said Court shall make such order on the petition for the payment of such portion of the said principal sum as justice shall require, which order shall be binding on all parties to the suit.

Mode of proceeding by claimant to recover principal money so transferred.

Regulations repealed.

LIII. Section VI. Regulation XV. of 1806 of the Bengal Code and Section V. Regulation IV. of 1809 of the Madras Code are hereby repealed.

LIV. Whenever any British subject shall die leaving personal assets within the limits of the jurisdiction of a Zillah Judge and no will shall be found among the effects of the deceased, it shall be the duty of the Zillah Judge to report the circumstance without delay to the Administrator General of the Presidency, retaining the property under his charge until letters of Administration shall have been obtained by the Administrator General or by some other person from the Supreme Court of Judicature, when the property shall be delivered over to the person obtaining such letters of Administration, or in the event

Zillah Judge in certain cases to take charge of property of a British subject dying within the Zillah, and to report to Administrator General.

of a will being discovered, to the person who may obtain probate of the will

Construction of Act.

LV. In the construction of this Act, the word "Government" shall be deemed to mean the Governor General of India in Council, so far as the Act relates to the Presidency of Fort William in Bengal, or any place subordinate thereto, and the person or persons for the time being administering the Executive Government of the Presidency, so far as the Act relates to the Presidencies of Fort St. George and Bombay respectively; the words "letters of administration" shall include any letters of administration, whether general or limited or with a will annexed, and letters *ad colligenda bona.* Words in the masculine gender shall include the feminine; and words in the singular number shall include the plural, and *vice versa*, unless where such construction would be inconsistent with or repugnant to the context.

Repeal of Acts

LVI. Acts VII. of 1849 and II. of 1850 are hereby repealed as to all letters of administration which shall hereafter be applied for or granted.

Act not to apply to administration of estates of soldiers or sailors

LVII. Nothing in this Act is intended to require the Administrator General to take proceedings to obtain letters of administration to the estate or effects of any officer or soldier or other person subject to any Articles of War, or to the estate or effects of any officer, seaman or other person dying in the Marine Service of the East India Company, called the Indian Navy, unless when the Administrator General shall be duly authorized or required so to do by the Military Secretary, or other officer having similar powers with regard to the estate or effects of any officer, seaman or other person dying in the Indian Navy; nor is anything in this Act contained intended to interfere with or alter the provisions of any Act of Parliament for regulating the payment of regimental debts and the distribution of the effects of officers and soldiers dying in the Service of the East India Company, or of any Articles of War, or of any Act of Parliament relating to the Indian Navy.

Commencement of Act.

LVIII. This Act shall commence and take effect from the 1st day of March 1855.

ACT No. IX. OF 1855.

Passed on the 21st of March 1855.

An Act for the amendment of Procedure in cases of regular appeal to the Sudder Court in the Presidency of Fort St. George.

Preamble

Whereas it is desirable to simplify and shorten the procedure in regular appeals to the Court of Sudder Udalut in the Presidency of Fort St. George, It is enacted as follows :—

Petition of regular appeal, when and to what Court to be presented and what to contain.

I. *Clause 1st.* In modification of Clause fifth, Section X. Regulation V. of 1802, every petition of regular appeal in a case appealable to the Sudder Court, shall be presented to the Court in which the decision was passed within six weeks from the day of the decision. Such petitions of appeal shall, except in cases of petitions under Section XII. of this Act, contain only notice that the party, being dissatisfied with the decision, is desirous of appealing from it.

Time for presenting petition of appeal may be extended. To what Court, and how application to be made.

Clause 2nd. The Sudder Court may extend the time for presenting such petition of appeal to the lower Court, upon being satisfied that there is sufficient cause for such extension of time. The application for such extension of time may be made directly to the Sudder Court, or through the intervention of the lower Court, at the option of the applicant.

Notice to be given to respondent—and proclamation to issue.

II. On presentation of a petition of regular appeal to the Court in which the decision was passed, notice thereof to the respondent, as well as a proclamation to the same effect, shall immediately issue from that Court, and a copy of the proclamation shall be forthwith fixed up in some conspicuous part of the Court House of the said Court. If the notice cannot be personally served, the proclamation shall at once be fixed upon the door of the respondent's dwelling house, or in some conspicuous place in the village or place where he usually resides; or in cases in which the respondent shall not have a fixed residence within the jurisdiction of the Company's Courts, the proclamation may be fixed upon the door of his house of business or cutcherry, or the notice may be served on his known local agent. In case the proclamation cannot be fixed, or the notice served in the manner abovementioned, the proclamation shall be fixed up in such other place, if any, as the said last-mentioned Court shall direct The Nazir shall

Service of notice &c

make a return to the Court stating when and where the notice and proclamation have been served or fixed up. The return of the Nazir shall be filed in Court, and shall form part of the record of the case, and such return shall be published by fixing up the same in some conspicuous part of the Court House of the lower Court.

Of what original papers copies are to be deposited.

III. *Clause 1st.* The rule in Section XI. Regulation V. of 1802, which directs copies of all original papers transmitted to the Sudder Court with the record of an appealed case to be made out and deposited in the lower Court, in lieu of the originals, is hereby modified, and it shall be necessary to copy, authenticate, and deposit only the exhibits in the case, and also any other papers of importance, including the pleadings, or any parts of them, which either of the parties shall require to be copied, authenticated and deposited in the lower Court, previously to their being transmitted to the Sudder Court.

Party requiring any papers to be copied to give notice thereof.

Clause 2nd. If either of the parties require any papers to be copied, authenticated and deposited, such party shall, either by himself, or his pleader or authorized agent, give notice in writing thereof to the lower Court, before the expiration of fourteen days from the time of the publication of the return of the Nazir, as aforesaid: such notice shall specify the papers which the party requires to be copied, authenticated and deposited.

Party may give notice of papers to be copied in anticipation of appeal.

Clause 3rd. Either party may, by himself, or his pleader or authorized agent, before the presentation of an appeal, give notice in writing to the lower Court specifying any papers or documents which he requires to be copied, authenticated and deposited, in the event of an appeal being preferred.

Petition and record when to be certified to the Sudder Court.

Proviso.

IV. The petition of appeal together with the record of the lower Court shall be certified to the Sudder Court as soon as conveniently may be after the presentation of the petition of appeal, provided that the same shall not be certified within the time allowed to the parties for specifying the papers which they desire to be copied, authenticated and deposited.

Notice to appellant to file objections.

V. On arrival of the appeal record at the Sudder Court, notice shall be affixed in the Court House of the said Court, requiring the appellant to file, within six weeks from the date thereof, his grounds of objec-

tion to the decision of the Court below. Within the said space of six weeks, the appellant shall file in the said Sudder Court his grounds of objection to the decision.

Notice to respondent to file objections.

VI. *Clause 1st.* On the filing of the grounds of objection by the appellant, notice shall be affixed in the Court House of the Sudder Court, requiring the respondent to file his grounds of objection, if any, to the appeal, or to the decision of the lower Court, within four weeks from the date of such notice.

When respondent to file objections.

Clause 2nd. Within the said space of four weeks, the respondent shall file any grounds of objection which he has to the appeal, or which relate to such parts of the decision as are involved in the appeal.

In what case respondent may file a separate petition of appeal

Clause 3rd. If the respondent shall desire to object to any part of the decision of the lower Court not involved in the appeal, he may present a separate petition of appeal to the Sudder Court within the said space of four weeks, or within such further time as the said Sudder Court shall allow for that purpose.

Grounds of objection to be filed therewith.

Clause 4th. The respondent shall, in such case, file with his petition of appeal, his grounds of objection to that part of the decision to which his appeal relates; otherwise his appeal shall not be received.

Record when to be deemed complete.

VII. *Clause 1st.* At the expiration of the time allowed to the respondent for filing his grounds of objection, and for filing a separate petition of appeal in the Sudder Court, the record shall be deemed complete, and the case ready to be called up for decision, on any day which the Sudder Court may notify, unless the respondent, within such time, file a separate petition of appeal in the Sudder Court.

Notice of separate petition of appeal given.

Clause 2nd. If the respondent file a separate petition of appeal in the Sudder Court, notice shall be fixed up in the Court House of the Sudder Court, to the effect that the respondent has filed such separate appeal; and the notice shall require the appellant to file any grounds of objection which he may have thereto, within the space of four weeks from the date of the notice.

When appellant to file objections.

Clause 3rd. Within such space of four weeks, the appellant may file any grounds of objection which he has to such appeal, or which relate to that part of the decision which is involved in the respondent's appeal. At the expiration of the time allowed for filing such grounds of objection by the appellant, the record shall be deemed complete, and the case ready to be called up for decision on any day which the Sudder Court shall notify for that purpose.

Record when to be deemed complete.

Hearing of appeals.

Clause 4th. If the appeal of either party be dismissed, or withdrawn, the appeal of the other may be heard alone; otherwise the two appeals, and the proceedings thereon, shall form one record, unless the Sudder Court shall otherwise order.

In what case respondent not to present a separate petition of appeal

VIII. The respondent shall not be allowed to present a separate petition of appeal in the Sudder Court if he shall previously have presented a petition of appeal to the lower Court.

Objections to be distinctly stated, and to be numbered.

Also to be written on stamped paper.—Exception.

IX. *Clause 1st.* All grounds of objection, which shall be filed by either the appellant or the respondent, shall be stated distinctly and concisely, without any argument or narrative of facts; and shall be numbered consecutively, and except in the cases hereinafter mentioned, shall be on paper bearing the stamp duty prescribed by Section XIX. Regulation XIII. of 1816.

Sudder Court may extend the time for filing objections.

Clause 2nd. The Sudder Court may extend the time for filing grounds of objection, either by an appellant or respondent, upon special application for that purpose, and upon sufficient reasons being shown, to the satisfaction of the said Court, for such extension of time. In such case, the objections may be filed within such extended time.

By leave of the Sudder Court, grounds of objection may be amended or added The parties, but not the Court, to be confined to the objection filed.

X Either party may, by leave of the Sudder Court or any Judge thereof, at any time before the hearing, amend his grounds of objection, or add grounds of objection to those filed, upon such terms and conditions, and within such time as the said Court or Judge may order. The said Court may also, upon the hearing of any appeal, allow either party to amend his grounds of objection, or to add further grounds, or to urge, and be heard by himself or his pleader, in support of any objection not included in his grounds of objection, upon such terms and conditions as to postponement of the

cause, and as to the payment of costs or otherwise, as the Court shall think just, to prevent the opposite party or his pleader from being taken by surprise, or otherwise. Without such leave of the Court, neither party shall be allowed to urge or to be heard in support of any objection not included in his grounds of objection filed. But the Court shall not be confined to such grounds of objection in deciding the cause.

Sudder Court may fix a day to hear and determine objections to the appeal before hearing the appeal.

XI. *Clause 1st* The Sudder Court may call up for hearing and decision on any day the Court shall notify, and without regard to the place in which the case stands in the general list of appeals, any grounds of objection filed by the respondent, or the appellant, to the appeal of the opposite party, and the Sudder Court may hear and decide upon such grounds of objection, before calling the case up for decision, upon the grounds of objection to the decision of the lower Court.

Appeal involving objections of law only may be heard and decided at any fixed time, without regard to its place in the list of appeals.

Clause 2nd If the grounds of objection filed by the appellant and respondent shall be upon points of law only, and shall not raise any question of fact, the Sudder Court may order the case to be called up for hearing and decision on any day which the said Court shall notify, without regard to the place in which it stands in the general list of appeals pending in the said Court.

Appeal involving objections of law and fact how to be heard.

Cause 3rd. If the grounds of objection filed shall raise questions of law and fact, and it shall appear to the Sudder Court that the decision of the law may render it unnecessary to determine any question of fact so raised, the Court may order the case to be called up for decision upon the law alone in the first instance, in the manner pointed out in the last preceding Section; and if the decision of the case upon the law shall render it unnecessary to determine any question of fact, the said Court shall pass a final decision in the case, otherwise the Court shall determine the law only, and the case shall be afterwards set down in the list of regular appeals for hearing upon the question or questions of fact, and shall be determined in the same manner as any other regular appeal.

Appeal in formâ pauperis

XII. If any party to a regular suit be desirous of being admitted to appeal *in formâ pauperis* to the Sudder Court, the following procedure shall be adopted

Petition when to be presented.

Proviso.

Clause 1st. The appellant shall present his petition to the lower Court according to the rules prescribed by Section I. of this Act, provided that a petition to appeal *in formâ pauperis* against any decision passed before this Act shall come into operation may be presented within three months from the day of the decision.

Form of petition.

Clause 2nd. Petitions of appeal by parties desirous to appeal *in formâ pauperis* shall contain a statement to that effect and also a Schedule of the whole real and personal property belonging to the petitioner, and the estimated value of such property, and shall be written on paper bearing the stamp duty of two rupees per sheet.

Notice thereof and Proclamation

Clause 3rd. Upon the presentation of such petition, the notice to the respondent and the proclamation shall state that the appellant desires to appeal *in formâ pauperis.*

Procedure on such appeal.

When Sudder Court is to determine whether appeal shall be in formâ pauperis.

Clause. 4th. On arrival of the appeal record at the Sudder Court, the same procedure shall be adopted in that Court as in other cases of regular appeal, except that, after the filing of the grounds of objection by the appellant, and before notice shall be given requiring the respondent to file his grounds of objection the Sudder Court shall determine, according to the rules now applicable to the determination of such cases, whether or not the appellant shall be allowed to appeal *in formâ pauperis.*

Notice to respondent to file objections to pauper appeals.

Clause 5th. If the Sudder Court allow the petitioner to appeal *in formâ pauperis,* notice shall be given to the respondent to file his grounds of objection in the manner provided by Section VI. of this Act, and the same procedure shall be adopted subsequently thereto as in other cases of regular appeal under this Act.

Rules of Sudder as to pauper appeals to continue in force, except where inconsistent with this Act.

The rules and conditions now applicable to persons admitted by the Sudder Court to appeal *in formâ pauperis,* shall continue in force, except where the same are inconsistent with any of the provisions of this Act.

What order may be made upon refusal to allow appeal in formâ pauperis

Clause 6th. If the Sudder Court refuse to allow the petitioner to appeal *in formâ pauperis,* the said Court may make an order to the effect that the appellant, upon filing a petition of appeal in that Court upon paper bearing the stamp duty prescribed by Section XIII, and

Clause 2, Section XXIII., Regulation XIII. of 1816, and upon re-filing his grounds of objection on paper bearing the stamp duty prescribed by Section XIX. and Clause 2, Section XXIII. of the same Regulation, may proceed with the appeal according to the rules prescribed by this Act in the case of persons not appealing as paupers.

Appellant how to proceed upon such order.

Clause 7th. Upon such order being made, the appellant shall file his petition, and re-file his objections upon paper stamped with the stamp duty required by clause 6th of this Section, within two weeks from the date of such order, or within such further time as the said Court may allow for that purpose; otherwise the appeal shall stand dismissed.

Notice of order to be given to respondent. Subsequent procedure thereon.

Clause 8th. Upon the re-filing of the grounds of objection according to the provisions of the last preceding Clause, notice of the order and of the re-filing of such objections shall be given to the respondent in the manner prescribed by Section VI. of this Act, and the respondent shall be required to file his grounds of objection, if any, according to the provisions of that Section. The procedure subsequent to such notice shall be according to the general provisions of this Act.

In pauper appeals, appellant's objections may be on unstamped paper.

Clause 9th. If an appellant shall petition to appeal *in formâ pauperis*, his grounds of objection may be written on plain paper.

All subsequent objections may be on unstamped paper.

XIII. If an appellant shall be admitted to appeal, or a respondent to defend *in formâ pauperis*, all grounds of objection subsequently filed by either party may be written on plain paper.

Act not to be retrospective.

XIV. The provisions of this Act shall not apply to regular appeals prepared before the 1st day of May 1855.

Act No. X. of 1855.

Passed on the 21st of March 1855.

An Act to amend the Law relating to the attendance and examination of witnesses in the Civil Courts of the East India Company in the Presidencies of Fort St. George and Bombay, and to amend the provisions of Section XL. Act XIX. of 1853.

Preamble.

Whereas it is expedient to amend the Law relating to the attendance and examination of witnesses in the Civil Courts of the East India Company in the Presidencies

of Fort St. George and Bombay, and to amend the provisions of Section XL. Act XIX. of 1853; It is enacted as follows

Repeal of former Regulations &c.

I. Section XXII Regulation VII. of 1809 and Section VIII. Regulation XII. of 1809 of the Madras Code, and Section XL. Act XIX. of 1853, are hereby repealed.

Special application to compel attendance of party to a suit as a witness

II. If any party to a suit shall require the attendance of any other party thereto as a witness to be enforced, he shall, by himself or his pleader, make a special application to the Court for an order for a summons to compel the attendance of the party, and shall show to the satisfaction of the Court sufficient grounds in support of such application; otherwise a summons shall not be issued. In cases in which, according to the practice of the Court, a day is fixed for the trial, the application shall be made before such day shall be fixed.

Court may require notice to be given to a party to show cause why he should not attend.

III. The Court, upon the application of the pleader of any party to a suit whose attendance as witness is required, or without such application, if the Court think fit so to do, may, before making such order, cause notice to be given to the party or his pleader fixing a day for such party to show cause why he should not attend and give evidence, and may also, from time to time if necessary, for good and sufficient cause, enlarge the time for such purpose.

Written declaration of party receivable.

IV. *Clause* 1.—In support of the cause shown, the Court shall receive a declaration in writing of the party, signed by him, and delivered into the Court by himself or his pleader.

Penalty for false statement.

Clause 2.—If the party making such declaration shall wilfully and corruptly make any false statement therein, he shall be deemed guilty of perjury, and shall be proceeded against, and upon conviction punished accordingly.

Court not to compel attendance of party to a suit to give evidence, if satisfied that he has no personal knowledge and that he cannot give material evidence.

V. The Court need not compel the attendance of any party to a suit for the purpose of giving evidence therein, if such party shall satisfy the Court that he has no personal knowledge of any material subject of enquiry in the suit, and that he cannot give material evidence therein.

Summons to issue if no sufficient cause shown.

VI. If no sufficient cause be shown on the day fixed, or upon any subsequent day to which the Court shall enlarge the time for that purpose, the Court shall cause a summons to be issued for compelling the party to attend and give evidence.

Mode of examining party to a suit who offers himself as a witness.

VII. No party to a suit, appeal, or proceeding, who shall offer himself as a witness therein, shall without the consent of all parties thereto, be examined otherwise than in open Court, in such manner as the Court may direct, having regard to the usages and customs of the country, unless such examination shall be taken under, and subject to the Rules prescribed by Section XII. or XIV. (*a*) of this Act.

Proviso.

Penalty for non-compliance with summons.

VIII. If any witness, being a party to a suit to whom any summons to give evidence or produce a document shall have been personally delivered, shall, without lawful excuse, fail to comply with such summons, or attending, or being present in Court, shall, without lawful excuse, refuse to give evidence, or to subscribe his deposition, or to produce any document in his custody or possession, the Court, instead of proceeding in the manner provided by the laws in force in the Presidency in respect of defaulting witnesses, may, if the witness be a plaintiff, appellant, or petitioner, dismiss the complaint, appeal or petition, with costs against such party, or if such party be a defendant or respondent, may hear and decide the case against such defendant or respondent *ex parte*. If any such complaint, appeal or petition shall be dismissed for such cause, the complainant or petitioner shall be debarred from preferring any other petition, appeal or complaint in respect of the same matter.

In what case a witness not being a party to the suit in which he is summoned is bound to produce his title-deeds.

IX. A witness not a party to the suit or proceeding in which he is summoned shall not be bound to produce his own title-deeds, unless he shall have agreed in writing with the party requiring the production thereof, or with some person through whom he claims to produce such deeds.

Person not obeying summons, &c., liable for damages in a civil action.

X. Any person, whether a party to the suit or not, to whom a summons to attend and give evidence or produce a document shall be personally delivered, and who shall, without lawful excuse, neglect or refuse to obey such summons, or who shall be proved to have absconded, or kept

(*a*) This should be Section XIII.

out of the way to avoid being served with such summons, and any person who, being in Court, and upon being required by the Court to give evidence or produce a document in his possession, shall, without lawful excuse, refuse to give evidence or sign his deposition, or to produce a document in his possession, shall, in addition to any proceedings to which he would otherwise be subject, be liable to the party at whose request the summons shall have been issued, or at whose instance he shall be required to give evidence or produce the document, for all damages which he may sustain in consequence of such neglect or refusal, or of such absconding or keeping out of the way as aforesaid, to be recovered in a civil action.

Postponing case on account of non-attendance of witness, &c.

XI. It shall not be necessary to postpone the hearing or decision of a case for the non-production of a document, or for the evidence of a witness who may neglect or refuse to attend, or who shall abscond or keep out of the way, or who cannot be served with a summons, beyond such period as shall appear proper to the Court, having regard to all the circumstances of the case provided that, when a summons shall have been issued for the attendance of a plaintiff or appellant in a suit to give evidence or produce a document, the Court shall, at the request of the defendant or respondent, unless there be good reason to the contrary, postpone the hearing or decision until the plaintiff or appellant can be personally summoned, or shall attend and give evidence or produce the document required; and that, where a summons shall have been issued for the attendance of a defendant or respondent to give evidence or produce a document, the hearing or decision shall, upon the application of the plaintiff or appellant, be postponed in like manner, unless there be good reason to the contrary, until the defendant or respondent can be personally summoned, or shall attend and give evidence, or produce the document required.

Proviso

Oral evidence how to be taken.

XII. In every regular or summary suit, appeal or proceeding in any of the Civil Courts of the East India Company, and also in every summary suit or other proceeding of a Civil nature before any Court, Officer, or other person having by law or consent of parties authority to examine witnesses, the evidence of the attending witnesses shall be taken orally, in open Court, in the presence and hearing, and under the personal direction and superintendence of the Judge. The evidence of each witness given upon such examination shall be taken down in writing,

by or in the presence and under the superintendence of the Judge, not ordinarily by question and answer, but in the form of a narrative, and when completed shall be read over to the witness, and signed by him in the presence of the Judge and of the parties to the suit or their vakeels, or such of them as may think fit to attend. In case the witness shall refuse to sign the deposition, the Judge shall sign the same and record the reason, if any, given by the witness for such refusal, together with such remarks thereon as the Judge shall think fit to make. It shall be in the discretion of the Judge to take down, or cause to be taken down, any particular question and answer, if there shall appear any special reason for doing so, or any party or his vakeel shall require it. If any question put to a witness be objected to by either of the parties, or their vakeels, and the Court shall allow the same to be put, the question and answer shall be taken down, and the objection, and the name of the party making it, shall be noticed in taking down the depositions, together with the decision of the Court upon the objection. The Judge shall also record such remarks as he may think material respecting the demeanor of any witness whilst under examination. Provided that it shall not be necessary to take in writing the evidence of witnesses in cases tried by District Moonsiffs in the said Presidency of Fort St. George when the claim shall not exceed 20 rupees, or in cases tried by Village Moonsiffs in the same Presidency.

Proviso.

XIII. In cases where the evidence is needed of females, who, according to the custom of the country, ought not to be compelled to appear as witnesses in a Court of Justice, and in which the Court shall be of opinion that the ends of justice require and justify it, such Court may issue a commission to any Officer of the Court or other person, to be named in such commission, for the examination of such females in the hearing of the parties to the suit or their vakeels, in such manner as the Court may direct, having regard to the Custom and usage of the country, and with liberty to the parties or their vakeels to cross-examine, anything in Section V. Act VII. of 1841 to the contrary notwithstanding.

Evidence of Purdah Nusheen Women

XIV. Any party to a suit, appeal or proceeding, who may be examined as a witness therein, shall be examined according to the rules for the time being in force as to the examination of witnesses not being parties to the suit, and shall be punishable for any false evidence given by him, in the same manner as if he were not a party.

By what rules a party to a suit is to be examined, and how punishable for false evidence.

Interpretation of words "witness" and "witnesses" in Act VII. 1841.

XV. The words "witness" and "witnesses" in Act VII. of 1841 shall respectively include any party or parties to a suit, and the said Act shall be read as if the words "or party" "or parties" had been used in such Act, in conjunction with the words "witness" or "witnesses" respectively. Provided that the deposition of a party taken under the provisions of this Section, at the instance of any opposite party, may be read in evidence by, or on behalf of such last mentioned party, without the proof required by Section V. of the said Act. Provided also that no deposition of any party taken under the provisions of this Section shall be read or used in evidence unless taken and read at the instance of some opposite party, or unless it shall be proved that the deponent is unable, from sickness or infirmity, to attend to be personally examined, or is, without collusion or any reference to the suit, at so great a distance from the Court, that, in the judgment of the Court, it would be unreasonable to require his personal attendance in Court for the purpose of giving such evidence, in which last-mentioned case it shall be discretionary with the Court, having regard to the nature of the case and of the evidence given, either to allow or to refuse such deposition to be read.

Proviso

No appeal from Judge's order as to summons, &c.

XVI. No appeal shall lie from any order or decision of a Judge with respect to summoning or examining any party to a suit, or as to allowing a deposition to be read under the Section next preceding.

Document referred to in pleading to be filed.

XVII. If any party to a suit in any Civil Court of the East India Company in either of the said Presidencies or in the Presidency of Fort William in Bengal shall, in any plaint, answer or other pleading, refer to any document in his possession or power, not being a shop book or book of account, as a material proof or document in support of his claim or defence, he shall file such document with such plaint, answer or other pleading, and no such plaint, answer or other pleading shall be received without such document, unless, upon good and sufficient cause shown, the Court shall excuse its non-production or enlarge the time for producing it; and any adverse party shall be entitled, by himself or his vakeel, to inspect and take a copy of the document.

Interpretation Clause.

XVIII. In the construction of this Act, unless where it is otherwise expressly provided, or there is something in the subject or context repugnant to such construction or

which would render such construction inapplicable to the case, the word "Court" shall mean any Civil Court of the East India Company and the word "Judge" shall include any officer or person having, by law or consent of parties, authority to examine witnesses and to act judicially, the word "suit" shall be deemed to mean and include any suit, appeal or proceeding; the word "witness" shall include all persons competent and liable to give evidence, whether parties to any suit or proceeding, or not. Words importing the masculine gender or singular number shall include the feminine gender or plural number, and *vice versa*.

Act when to operate.

XIX. This Act shall come into operation on the 1st day of May 1855.

ACT No. XI OF 1855.

Passed on the 27th of March, 1855.

An Act relating to mesne profits and to improvements made by holders under defective titles in cases to which the English Law is applicable.

Preamble.

WHEREAS it is expedient, in cases to which the English Law is applicable, to limit the liability for mesne profits, and to secure to *bona fide* holders under defective titles the value of improvements made by them; It is enacted as follows:—

No person to be chargeable with rent bona fide *paid to a holder under defective title.*

I. No person shall be chargeable with any rents or profits of any immoveable property which he has *bona fide* paid over to any person of whom he *bona fide* held the same, notwithstanding it may afterwards appear that the person to whom such payment was made, had no right to receive such rents or profits.

Value of improvements made by bona fide *holders under defective titles secured to them.*

II. If any person shall erect any building or make an improvement upon any lands held by him *bona fide* in the belief that he had an estate in fee simple, or other absolute estate, and such person, his heirs or assigns, or his or their undertenants, be evicted from such lands by any person having a better title, the person who erected the building or made the improvement, his heirs or assigns, shall be entitled either to have the value of the building or improvement so erected or made during such holding and in such belief, estimated and paid or secured to him or them, or, at the option of the person causing the eviction, to purchase the interest of such person in the lands at the value

thereof irrespective of the value of such building or improvement. Provided that the amount to be paid or secured in respect of such building or improvement shall be the estimated value of the same at the time of such eviction.

Value how to be estimated

III. Nothing in this Act contained shall extend to any case to which the English Law is not applicable.

Act to apply only to cases governed by English Law

ACT No. XII. OF 1855.

Passed on the 27th of March, 1855.

An Act to enable Executors, Administrators or Representatives to sue and be sued for certain wrongs.

WHEREAS it is expedient to enable Executors, Administrators or Representatives in certain cases to sue and be sued in respect of certain wrongs which, according to the present law, do not survive to or against such Executors, Administrators or Representatives; It is enacted as follows:—

Preamble

I. An action may be maintained by the Executors, Administrators or Representatives of any person deceased, for any wrong committed in the life-time of such person, which has occasioned pecuniary loss to his estate, for which wrong an action might have been maintained by such person, so as such wrong shall have been committed within one year before his death, and provided such action shall be brought within one year after the death of such person; and the damages, when recovered, shall be part of the personal estate of such person and further, an action may be maintained against the Executors or Administrators or Heirs or Representatives of any person deceased for any wrong committed by him in his lifetime for which he would have been subject to an action, so as such wrong shall have been committed within one year before such person's death and so as such action shall be commenced within two years after the committing of the wrong· and the damages to be recovered in such action shall, if recovered against an Executor or Administrator, bound to administer according to the English Law, be payable in like order of administration as the simple contract debts of such person.

Executors may sue and be sued in certain cases for wrongs committed in the life-time of a deceased person.

II. No action commenced under the provisions of this Act shall

Death of either party not to abate suit

abate by reason of the death of either party, but the same may be continued by or against the Executors, Administrators or Representatives of the party deceased. Provided that, in any case in which any such action shall be continued against the Executors, Administrators or Representatives of a deceased party, such Executors, Administrators or Representatives may set up a want of assets as a defence to the action, either wholly or in part, in the same manner as if the action had been originally commenced against them.

Proviso.

ACT No. XIII. of 1855

Passed on the 27th of March, 1855.

An Act to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong.

Preamble.

WHEREAS no action or suit is now maintainable in any Court against a person who, by his wrongful act, neglect, or default, may have caused the death of another person, and it is often-times right and expedient that the wrong-doer in such case should be answerable in damages for the injury so caused by him; It is enacted as follows.—

Action for compensation to the family of a person for loss occasioned to it by his death by actionable wrong.

I. Whenever the death of a person shall be caused by wrongful act, neglect or default, and the act, neglect or default is such as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, the party who would have been liable if death had not ensued, shall be liable to an action or suit for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony or other crime. And it is enacted further, that every such action or suit shall be for the benefit of the wife, husband, parent and child, if any, of the person whose death shall have been so caused, and shall be brought by and in the name of the Executor, Administrator or Representative of the person deceased; and in every such action the Court may give such damages as it may think proportioned to the loss resulting from such death to the parties respectively, for whom and for whose benefit such action shall be brought, and the amount so recovered, after deducting all costs and expenses, including the costs not recovered from the defendant, shall be divided amongst the before-

mentioned parties, or any of them, in such shares as the Court by its judgment or decree shall direct.

Not more than one action to be brought to be commenced within 12 months.

Claim for loss to the Estate may be added.

II. Provided always that not more than one action or suit shall be brought for, and in respect of the same subject matter of complaint, and that every such action shall be brought within twelve calendar months after the death of such deceased person; provided that, in any such action or suit, the Executor, Administrator or Representative of the deceased may insert a claim for, and recover any pecuniary loss to the Estate of the deceased occasioned by such wrongful act, neglect or default, which sum, when recovered, shall be deemed part of the assets of the Estate of the deceased.

Plaintiff shall deliver particulars, &c.

III. The plaint in any such action or suit shall give a full particular of the person or persons for whom, or on whose behalf, such action or suit shall be brought, and of the nature of the claim in respect of which damages shall be sought to be recovered.

Construction of Act.

IV. The following words and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context or by the nature of the subject matter, that is to say, words denoting the singular number are to be understood to apply also to a plurality of persons or things, and words denoting the masculine gender are to be understood to apply also to persons of the feminine gender; and the word "person" shall apply to bodies politic and corporate; and the word "parent" shall include father and mother, and grand-father and grand-mother; and the word "child" shall include son and daughter, and grand-son and grand-daughter, and step-son and step-daughter.

ACT No. XIV. OF 1855.

Passed on the 27th of March, 1855.

An Act for the better regulation of Military Bazars in the Presidency of Fort St. George.

Preamble.

WHEREAS it is desirable to extend the provisions of Act XII. of 1842 to persons suing for the recovery of debts before Superintendents of Police, under the provisions

of Regulation VII. of 1832 of the Madras Code; It is enacted as follows.—

Debt, &c. not recoverable under Clause 3 of Section XXI. of Regulation VII 1832 of Madras Code, unless person suing have been registered as a Military Bazar-man.

I. No person residing within the limits of any Military Cantonment, or carrying on any trade or business therein, shall be allowed to recover in the Court of the Officer in charge of the Police, under the provisions of Clause 3, Section XXI. of Regulation VII. of 1832 of the Madras Code, any debt contracted in the way of trade, or for the loan of money, within any such Cantonment, by any person subject to the jurisdiction of such Court, unless the person seeking to recover the debt shall, at the time of contracting thereof, have been registered as a Military Bazar-man within any such Cantonment.

ACT No. XVIII. OF 1855.

Passed on the 6th of June, 1855.

An Act to remove doubts relating to the power to grant Pardons and Reprieves and Remissions of Punishments in India.

Preamble.

WHEREAS doubts have arisen as to the power of the several Executive Governments in India to remit punishments awarded by Her Majesty's Supreme Courts of Judicature, and it is desirable that all doubts respecting the power to pardon or reprieve or grant remissions of punishment should be removed; It is declared and enacted as follows: (The sanction of Her Majesty to the passing of this Act having been previously obtained and signified in pursuance of an Act passed in the 17th year of the reign of Her said Majesty, entitled "An Act to provide for the Government of India.")

Executive Government of a Presidency declared to have power to grant pardons for offences committed therein

Or to remit punishment awarded by Supreme Court of Judicature or any other Court, &c., in respect of such offences.

I. The person or persons for the time being authorized to administer the Supreme Executive Government in any Presidency or place within the Territories in the possession and under the Government of the East India Company have power to grant pardons and reprieves in respect of any crime or offence committed within such Presidency or place, or to remit the whole or any part of the punishment awarded in respect of any such crime or offence, whether the same be awarded by any of Her Majesty's Supreme Courts of Judicature or by any other Court or Officer exercising jurisdiction within the said Territories.

II. Nothing in this Act shall be construed to interfere with the pro-

Act not to affect the provisions of the Statutes empowering the Governor General in Council to limit the authority of Lieutenant-Governors, &c.

visions contained in the Statutes of the Imperial Parliament 16 and 17 Vic. c. 95, and 17 and 18 Vic. c. 77, or any other Statute, which empower the Governor General of India in Council, with the sanction therein mentioned, to limit the extent of the authority of the Lieutenant-Governors and other persons therein named; and in every such case, the aforesaid power of granting pardons and reprieves and remissions of punishment in case, and so far as the same may be excepted from the authority of the said Lieutenant-Governors or other persons, may be exercised by the Governor General of India in Council.

The power of granting pardons, &c., may be exercised by the Governor General in Council, so far as it is excepted from the authority of Lieutenant-Governors &c.

Act not to interfere with the prerogative of the Crown to grant pardons.

III. Nothing in this Act shall be construed to interfere with the undoubted right of Her Majesty to grant pardons or reprieves or remissions of punishment in any of the cases above-mentioned.

ACT No. XIX. OF 1855.

Passed on the 24th of July, 1855.

An Act to amend the Law relating to District Moonsiffs in the Presidency of Fort St. George.

Preamble.

WHEREAS it is expedient, for the better administration of justice, to amend the law relating to District Moonsiffs in the Presidency of Fort St. George, It is enacted as follows:—

Certain parts of Regulation VI of 1816 of the Madras Code repealed.

I. Clause 3rd Section VII.; Clause 1st Section XII.; and so much of Clause 2nd of the same Section as prohibits District Moonsiffs from trying suits in which persons employed in their Cutcherries may be parties; Section XXIX.; and Section XL. Regulation VI. of 1816 of the Madras Code—are repealed.

Clause 1st Section XI. of the same Regulation modified.

II. Clause 1st Section XI. of the said Regulation is modified as follows:—Any suit cognizable by a District Moonsiff's Court may be heard and determined by any such Court to which it may be preferred, when the cause of action shall have arisen, or the Defendant, at the time of the commencement of the suit, shall reside, as a fixed inhabitant, within the local limits of the jurisdiction of the Court; provided that, if an action

be brought against several Defendants, of whom one shall be resident, as a fixed inhabitant, within the local limits of the jurisdiction of the Court, within the jurisdiction of which the cause of action shall have arisen, the action shall be brought in that Court.

Power of District Moonsiffs to require security from Defendants, &c.

III. Section XXII. of the said Regulation is modified as follows:—District Moonsiffs are empowered, when they think fit, to require security from Defendants, in preference to attaching their property under the circumstances described in the aforesaid Section, and to release property attached, on sufficient security being tendered by Defendants.

Powers of Subordinate Zillah Courts for enforcing the attendance of witnesses may be exercised by District Moonsiffs.

IV. All powers which may be lawfully exercised by Subordinate Zillah Courts for enforcing the attendance of witnesses summoned to appear in such Courts, may be exercised by District Moonsiffs for enforcing the attendance of witnesses summoned to appear in their Courts.

Penalty for resisting process.

V. On a complaint made to a District Moonsiff, on oath or solemn affirmation, that any person within his jurisdiction has resisted any process of his Court, the District Moonsiff may summon such person to answer to the charge, and, if the offence be proved to his satisfaction, may adjudge the offender to pay a fine not exceeding fifty Rupees, commutable to imprisonment for a term not exceeding one month in the Civil Jail, or in any place appointed by the Executive Government for the confinement of prisoners in civil cases.

Clauses 2, 3, and 4, Section X Regulation XV of 1816 of the Madras Code extended to District Moonsiffs' Courts.

VI. Clauses 2nd, 3rd, and 4th, Section X. Regulation XV. of 1816 of the said Code shall be applicable to the Courts of District Moonsiffs

Also part of Clause 2 Section VI. of the above Regulation

VII. Clause 2nd Section VI. Regulation XV. of 1816 of the said Code, relating to reviews of judgment, shall be applicable to the Courts of District Moonsiffs, except that the petition for a review need not be written upon stamped paper. Provided that, if a District Moonsiff shall be of opinion that a review of his judgment ought to be granted, he shall report the case to the Judge of the Zillah, who may permit such review, under the same rules as are prescribed in regard to similar applications to the Court of Sudder Adawlut.

Proviso.

All orders of District Moonsiffs under this Act open to appeal.

VIII. All orders which may be passed by a District Moonsiff under this Act are open to appeal to the Zillah Judge, if preferred within the time fixed for regular appeals.

ACT No. XX. of 1855.

Passed on the 24th of July, 1855.

An Act for the establishment and maintenance of Boundary-marks in the Presidency of Fort St. George.

Preamble.

WHEREAS it is desirable, with a view to the better definition and security of landed property, the prevention of encroachments and disputes, and the identification of lands assessed to, or exempted from the public revenue in the Presidency of Fort St. George, that provision should be made for the establishment and maintenance of permanent marks to distinguish the boundaries of fields, holdings, estates, and villages, It is enacted as follows :—

Collectors, &c to fix boundaries of fields &c, and to require owners or occupants to form and maintain boundary-marks.

I. It shall be lawful within the said Presidency for a Collector of Land Revenue, or person exercising the powers of Collector, or any Revenue Officer appointed by the Government for the purpose, to fix the boundaries of fields, holdings, estates, or villages, and to require that marks be formed and maintained by the owners or occupants on the boundaries, of such materials, and in such number and manner, as may appear to such Officer sufficient for distinguishing the limits of such fields, holdings, estates, or villages, whenever he may be of opinion that such demarcation is necessary for the prevention or adjustment of disputes.

Notices for the purpose when and how to be served.

II. Notices shall be served on the persons owning or occupying the conterminous fields, holdings, estates, or villages, requiring them to form or repair such boundary-marks within ten days from the date of the notice; and in the event of these persons not being found in their village, the said requisition shall be posted in a conspicuous place in the village, which shall be held to be a sufficient service, notwithstanding it may afterwards appear that the owners or occupants were not correctly named or designated in the said notice.

In default of compliance, officer may order erection or repair of necessary marks at the expense of the owners or occupants.

III. In default of the owners or occupants of the fields, holdings, estates, or villages complying with such requisition, the said officer may give directions for the erection and repair of such boundary-marks, the cost of which shall be equitably apportioned on the fields, holdings, estates, or villages which they serve to distinguish, and shall be charged to the persons possessing a right or ownership or occupancy in such fields, holdings, estates, or villages, and shall be levied in the same manner as arrears of land revenue.

In the case of unoccupied fields, cost to be charged to Government

IV. In the case of unoccupied fields, the cost shall be charged to Government.

Penalty for erasing, &c. marks—a moiety of which to be awarded to informer.

V. Any person convicted before a Magistrate of wilfully, and without lawful excuse, erasing, removing, or injuring such boundary-marks, or any survey-marks set up by an Officer of Government, shall be liable to a fine not exceeding Fifty Rupees for each mark so erased, removed, or injured, one-half of which fine may be awarded to the informer, and the other half shall be chargeable with the cost of restoring the mark. Whenever it may not be possible to detect the person who erased, removed, or injured such boundary or survey-marks, the Collector or other Revenue Officer aforesaid may give directions for the restoration or repair of such marks, and may order the cost thereof to be charged to the owners or occupants of the adjacent lands, or apportioned among the ryots of the village in proportion to their pottahs, as he may consider just and equitable, and to be levied in the same manner as arrears of land revenue.

Costs how to be recovered when offender is not known or unable to pay the fine.

Party objecting may complain to Collector &c.

VI. Any person objecting to a boundary proposed to be fixed under Section I., may prefer a complaint to the Collector or other Revenue Officer, who shall dispose of the same in the manner prescribed by Regulation XII. of 1816.

Penalty for refusing or neglecting to attend when summoned.

VII. Any occupant or owner of land refusing or failing to attend when summoned by the Collector or other Revenue Officer, at the measurement and demarcation of his field, holding, or estate, or of the village boundary, shall be liable, by order of the Collector or other such Officer, to a fine not exceeding Fifty Rupees, to be levied by the same process as an arrear of land revenue.

Proceedings under Sections III., V. and VII. to be recorded in writing, and appealable to the superior Revenue authorities.

VIII. The proceedings of Officers imposing charges under Sections III. and V., or fines under Section VII. of this Act, shall be recorded in writing, and shall be subject to appeal to the Revenue authorities to whom they are subordinate.

ACT No. XXI. OF 1855.

Passed on the 9th of August, 1855.

An Act for making better provision for the education of Male Minors and the marriage of Male and Female Minors, subject to the superintendence of the Court of Wards in the Presidency of Fort St. George.

Preamble.

WHEREAS the existing laws are found insufficient to insure the proper education of Male Minors subject to the superintendence of the Court of Wards, and it is expedient to make further and better provision for the education of such persons and their younger brothers, and for the exercise of a control over the marriages of all Minors under the superintendence of the Court of Wards; It is enacted as follows :—

General control and superintendence of the education of Male Minor Wards vested in Collectors of Revenue.

I. The general superintendence and control of the education of every Male Minor, whose property has been, or shall be brought, under the management of the Court of Wards, in, and for any part of the Presidency of Fort St. George, by virtue of any Act or Regulation which now is, or hereafter shall be, in force, is hereby vested in the Collector of Revenue, acting under the said Court of Wards, in the Zillah or District wherein such Minor's estate is situate; or, if such Minor is possessed of immoveable property in different districts, in such one of the Collectors of Revenue of such districts as the said Court of Wards shall select.

Collectors to have power to cause Male Minor Wards to be educated at any School or College.

II. It shall be lawful for every Collector of Revenue, in whom the superintendence of the education of any Minor is vested by this Act, to direct that such Minor shall reside, either with or without his guardian, at the Sudder Station of the district, or at any other place within the said Presidency, and shall attend, for the purpose of education, such School or College as to the said Collector may seem expedient; and to make such provision as may be necessary for

the proper care and suitable maintenance of the said Minor whilst attending such School or College.

Or in certain cases to cause such Wards to be educated by a private tutor.

III. If it shall appear to the Collector inexpedient to place any such Minor at a School or College, he shall cause such Minor to be educated by a private tutor, properly qualified, either at the family residence of such Minor, or at the Sudder Station, or elsewhere within the said Presidency, and in that case also the Collector shall have power to determine from time to time the place of residence of such Minor, and to make such provision as may be necessary for his proper tuition and maintenance during the period of his education.

Charges and expenses incurred under this Act to be paid out of the profits of the Ward's estate.

IV. All charges and expenses which may be incurred on account of any Male Minor Ward under the provisions of this Act, for College or School fees, or for other charges of tuition or education, or by reason of his residence in any place other than his own home, or otherwise, shall be defrayed from the profits of his estate, in the same manner as other expenses incurred under the authority, or with the sanction of the Court of Wards.

Court of Wards to have power to remove guardians for disobedience to orders passed by a Collector under this Act.

V. It shall be lawful for the Court of Wards, on the application of a Collector, to remove from office any guardian who shall neglect or refuse to obey, or shall evade compliance with any orders passed, or directions given by such Collector under the provisions of this Act, and to cause a new guardian to be appointed in his place, whether the person so removed shall have been first invested with the guardianship of the Minor upon the nomination of a Collector acting under the Court of Wards, or by a testamentary appointment confirmed by the Court of Wards.

Continued liability of guardian removed; powers and responsibilities of new guardian.

VI. The guardian so removed shall, notwithstanding his removal, continue liable to account to the Collector for his receipts and disbursements during the period of his guardianship, and every guardian, appointed in the place of a guardian so removed, shall be chosen in the same way, and shall have the same rights and powers, and be subject to the same responsibilities, as persons originally appointed to be guardians of Minors by a Collector of Revenue acting under the Court of Wards.

The right to the custody of the person of a Male Minor to be vested, in guardian appointed by the Court of Wards, or failing him, in the Collector.

VII. The right to the custody of the person of any Male Minor, whose property is under the management of the Court of Wards, is hereby vested in the person appointed with the sanction of the Court of Wards, either originally or upon the removal of a former guardian, to be the guardian of such Minor, or, in the absence of any such person, the Collector of Revenue having the superintendence of the education of such Minor under the provisions of this Act.

The foregoing Sections applicable also to the younger brothers of Wards.

VIII. Whenever a Minor, whose property is under the management of the Court of Wards, has a younger brother or brothers entitled to maintenance at the charge of the estate, all the powers and provisions hereinbefore contained for promoting the education of such Minor are hereby declared and made applicable to such younger brother or brothers.

Penalty of abetting marriage of Ward without leave of Collector.

IX. Whoever knowingly aids or abets the marriage of any Minor, whose property is under the superintendence of the Court of Wards, or the marriage of a younger brother or sister of such Minor, without the leave of the Collector of Revenue acting under the Court of Wards, to such marriage first had and obtained, shall, on conviction before a Court of Session, upon the prosecution of such Collector, be liable to a fine not exceeding two thousand Rupees, or to imprisonment not exceeding the term of six months, with or without hard labour.

Appeal from the orders of a Collector to lie to a Court of Wards.

X. All orders and proceedings of a Collector under the provisions of this Act shall be subject to the revision of the Court of Wards, and every person aggrieved by any such order or proceeding may prefer an appeal therefrom to the Court of Wards.

ACT No. XXII. OF 1855.

Passed on the 13th of August, 1855.

An Act for the Regulation of Ports and Port-dues.

Preamble.

WHEREAS it is expedient to provide for the safety of Vessels, and for the convenience of traffic in the several Ports within the Territories in the possession and under the Government of the East India Company, and in navigable Rivers and Channels leading to such Ports, and for the improvement, maintenance, and good government of such Ports, Rivers, and Channels; also to

regulate the levy of Port-dues, or charges in such Ports, Rivers, and Channels, in order to defray the cost of such improvement, maintenance, and good government; and to punish the unlawful use of certain flags and colors in such Ports, Rivers, and Channels; and whereas it is expedient to abolish the Anchorage dues heretofore levied in the Presidency of Bombay: It is enacted as follows:—

Repeal of part of Act I. of 1852.

I. Section XXI. of Act I, of 1852, and Schedule C. appended to that Act are hereby repealed.

Operation of certain laws to cease in Ports &c declared subject to this Act.

II. Regulation VII. 1801 of the Bengal Code; so much of Regulation II. of 1810 of the Bombay Code as is still in force; Section XII. Regulation III. 1833 of the Bengal Code; Act XIII. of 1839; Section XXXIX. of Act I. of 1852; Sections XLII. and XLIII. of Act XIII. 1852; and Act XI. of 1853, so far as it relates to the removal of any obstruction, impediment, or public nuisance affecting, or likely to affect, the navigation of the Port of Bombay—shall cease to be in force in any Port, River, or Channel in which the same respectively are now in force, from the time when such Port, River, or Channel shall be declared to be subject to this Act.

To what places this Act applies.

III. The local Government of any part of the said Territories may, with the sanction of the Governor General of India in Council, declare any Port within that part of the said Territories to be subject to this Act; and any navigable River or Channel leading to that Port to be subject to this Act. When any such Port or navigable River or Channel has been so declared to be subject to this Act, all the provisions of this Act, except such as are hereinafter made specially applicable to certain Ports by order of the Local Government, shall have effect in that Port or navigable River or Channel.

Limits of such places how to be fixed.

IV. Every declaration, by which any Port, navigable River, or Channel shall be made subject to this Act, shall define the limits of such Port, navigable River, or Channel; and such limits shall extend always up to high-water mark, and may include any piers, jetties, landing-places, wharfs, quays, docks, and other works made for any of the purposes mentioned in the preamble of this Act, whether within or without the line of high-water mark, and (subject to any rights of private property therein) any portion of the shore or bank within fifty yards of high-water mark.

Limits how to be altered.

V. The local Government may from time to time, with the sanction of the Governor General of India in Council, alter the limits of such Port, River, or Channel.

Appointment of Conservator.

VI. The Local Government shall appoint an Officer to be Conservator of every Port, River, or Channel subject to this Act. In Ports where there is a Master Attendant, such Master Attendant shall be the Conservator. In Ports where there is no Master Attendant, but where there is a Harbour Master, the Harbour Master shall be the Conservator. In Ports where there are both a Master Attendant and a Harbour Master, the Harbour Master and his Assistants shall be subordinate to, and subject to the control of the Master Attendant and his Assistants. The Conservator shall be subject to the control of the Local Government, or of any intermediate authority which that Government may appoint.

Local Government empowered to make Port-rules.

VII. The Local Government, with the sanction of the Governor General of India in Council, may from time to time make such Port-rules, not inconsistent with this Act, as it may think necessary for any of the following purposes, namely.

Entering or leaving Port.

1. For regulating the time at which, and the manner in which, vessels shall enter into, or go out of any Port subject to this Act.

Berths of vessels.

2. For regulating the berths and stations to be occupied by vessels in any such port.

Striking yards, &c.

3. For striking the yards and top-masts, and for rigging in the jib and driver-booms, of vessels in any such Port whenever it may be proper so to do.

Removal of anchors, &c.

4. For the removal or proper hanging or placing of anchors, spars, and other things, in or attached to vessels in any such Port.

Taking in or discharging ballast.

5. For regulating vessels whilst taking in or discharging ballast or cargo, or any particular kind of cargo, in any such Port, River, or Channel, and the stations to be occupied by vessels whilst so engaged.

Keeping free passage.

6. For keeping free passages of such width as may be deemed necessary within any such Port, River, or Channel, and along or near to the piers, jetties, landing-places,

wharfs, quays, docks, moorings, and other works, in or adjoining to the same; and for marking out the spaces so to be kept free.

Regulating the anchoring.

7. For regulating the anchoring, fastening, mooring, and unmooring of vessels in any such Port, River, or Channel.

Moving and warping.

8. For regulating the moving and warping of all vessels within any such Port, and the use of warps therein.

Use of mooring buoys.

9. For regulating the use of the mooring buoys, chain and other moorings in any such Port, River, or Channel.

Rates for use of mooring buoys.

10. For fixing, from time to time, the rates to be paid for the use of such moorings, when belonging to the East India Company, or of any boat, hawser, or other thing belonging to the said Company.

Cargo Boats, &c.

11. For regulating cargo and other boats, and catamarans plying for hire in any such Port. Provided that nothing in this Act, shall authorize the Local Government to fix the price to be charged for the use of any such boat or catamaran.

Fires and lights.

12. For regulating the use of fires and lights within any such Port.

Signal light.

13. For enforcing and regulating the use of signal lights by vessels at night in any such Port, River, or Channel.

Publication of Orders of a Local Government.

VIII. Every declaration and order of a Local Government, which shall be made in pursuance of this Act, shall be published in the Official Gazette of that Government, or, where there is no Official Gazette, in such other public manner as that Government may order; and a copy thereof shall be fixed up in some conspicuous place in the Office of the Conservator of every Port to which such order shall relate, and in the Custom House, if any, of every such Port.

Penalty for disobedience to rules.

IX. If any person shall disobey any such order, he shall be liable to a penalty not exceeding One Hundred Rupees for every offence.

Conservator empowered to give directions for certain specified purposes.

X. The Conservator of any Port subject to this Act may, in respect of any vessel within such Port, River, or Channel, give directions for carrying into effect any Port-rule in force within such Port.

Penalties for disobedience to orders of Conservator.

XI. If any person shall wilfully, and without lawful excuse, refuse or neglect to obey any lawful direction of such Conservator after notice thereof shall have been given to him, such person shall, for every such offence, forfeit and pay a sum not exceeding One Hundred Rupees, and a further sum not exceeding One Hundred Rupees for every day on which he shall wilfully continue to disobey such direction; and in case of such refusal or neglect, it shall be lawful for the said Conservator to do, or to cause to be done all such acts as shall be reasonable or necessary for the purpose of carrying such direction into execution, and to hire and employ proper persons for that purpose; and all reasonable expenses, which shall be incurred in doing such acts, shall be paid and borne by the person or persons so offending. Any written notice of a direction given under this Act, which shall be left for the Master of any vessel with any person employed on board thereof, or which shall be affixed on a conspicuous place on board of such vessel, shall, for the purposes of this Act, be deemed to have been given to the Master thereof.

Expenses caused thereby to be paid by the person offending.

Service of written notice.

Special Rule.
Vessels in certain cases not to be moved without having a pilot, &c or the permission of the Harbour Master

XII. In every Port subject to this Act, to which the provisions of this Section shall be specially extended by any order of the Local Government, it shall be unlawful to move any vessel of the burthen of 200 tons or upwards, without having a Pilot, Harbour Master, or Assistant of the Master Attendant or Harbour Master on board; or to move a vessel of any burthen less than 200 tons and exceeding 100 tons, without having on board a Pilot, Harbour Master, or Assistant of the Master Attendant or Harbour Master, unless authority in writing so to do has been obtained from the Conservator or some officer empowered by such Conservator to give such authority; and if any vessel shall, except in a case of urgent necessity, be removed contrary to the provisions of this Section, the Master of such vessel shall be liable to a penalty not exceeding Two Hundred Rupees for every such offence, unless the Master of the vessel shall, upon application to the proper Officer, be unable to procure a Pilot, Harbour

Exception.

Penalty.

Master, or Assistant of the Master Attendant or Harbour Master to go on board the said vessel.

Master to permit warps to be made fast to his vessel.

XIII. The Master of any vessel in any Port subject to this Act shall, when required so to do by the Conservator, permit warps to be made fast to such vessel, for the purpose of warping any other vessel in the Port, and shall not allow any such warp to be let go, until required so to do; and any Master offending against the provisions of this Section shall be liable, for every such offence, to a penalty not exceeding Two Hundred Rupees.

Penalty.

Penalty for leaving out hawser, &c. after sun-set.

XIV. If the Master of any vessel shall cause or suffer any warp or hawser, attached to his vessel, to be left out in any such Port after sun-set, in such a manner as to endanger the safety of any boat or other vessel navigating in the said Port, he shall be liable to a penalty for every such offence not exceeding Two Hundred Rupees.

Conservator may, in case of necessity, cut ropes, &c.

XV. The Conservator of any such Port may, in case of urgent necessity, cut, or cause to be cut, any warp, rope, cable, or hawser, which shall endanger the safety of any vessel in such Port, or at or near to the entrance thereof.

Penalties for causing obstruction or public nuisance.

XVI. If any person shall, without lawful excuse, cause any obstruction or impediment to the navigation of any Port, River, or Channel subject to this Act, or shall cause any public nuisance affecting or likely to affect such navigation, every such person shall be liable to a penalty not exceeding One Hundred Rupees, and also to pay all reasonable expenses which shall be incurred in abating or removing such nuisance, obstruction, or impediment; and the Conservator, or any Magistrate having jurisdiction over the offence, may cause such nuisance, obstruction, or impediment to be abated and removed.

Any floating timber, &c., or any obstruction on shore within the limits of the Port, to be removed at the expense of owner.

XVII. The Conservator may remove, or cause to be removed, any timber or raft, floating or being in any part of any such Port, which shall impede the free navigation of such Port; or any thing which shall obstruct or impede the lawful use of any pier, jetty, landing place, wharf, quay, dock, mooring, or other work, on any part of the shore or bank which has been declared to be within the limits of such Port, and is not private property; and the owner of

any such timber or raft or other thing shall be liable to pay the reasonable expenses of such removal.

Expenses of removal may be recovered as a penalty

XVIII. If the owner of any such timber or raft, or the person who has caused any such obstruction, impediment, or public nuisance as in either of the two last preceding Sections mentioned, shall neglect to pay the expense of the removal thereof, within one week after demand, or within fourteen days after such removal shall have been notified in the Official Gazette of the Presidency, or in such other manner as the Local Government by any general or special order may direct, such expenses may be recovered in the same manner as any penalty under this Act, and the Conservator may cause such timber, raft, or other thing, or the materials of any nuisance or obstruction so removed, or so much thereof as may be necessary, to be sold by Public Auction, and may retain all the expenses of such removal and sale out of the proceeds of such sale; and shall pay the surplus of such proceeds, or deliver so much of the said timber or other materials as shall remain unsold, to the owner or other person entitled to receive the same; and, if no such person appear, shall cause the same to be kept and deposited in such manner as the Local Government shall direct; and may, if necessary, from time to time, realize the expenses of keeping the same, together with the expenses of such sale, by a further sale of so much of the said timber or other materials as may remain unsold.

Timber, &c may be sold.

Proceeds how to be dealt with.

Obstructions lawfully made, how to be removed.

XIX. If any obstruction or impediment to the navigation of any Port, River, or Channel, subject to this Act, shall have been lawfully made, or shall have become lawful by reason of the long continuance of such obstruction or impediment or otherwise, the Conservator shall report the same for the information of the Local Government and shall, with the sanction of such Government, cause the same to be removed or altered, making to the person or persons who suffer damage by such removal or alteration reasonable compensation for the same. If any dispute arise concerning such compensation, the matter in dispute shall be determined according to the laws now or hereafter to be in force in the Presidency or place within which such Port, River, or Channel is situate relating to the determination of like disputes in the case of land required for public purposes.

Compensation how to be determined

XX. If any person shall wilfully and without lawful excuse lift,

Penalty for injuring buoys &c.

injure, loosen, or set adrift any buoy, beacon, or mooring, fixed or laid down by or by the authority of the Local Government in any Port, River or Channel subject to this Act, he shall for every such offence be liable, in addition to the payment of the amount of damages done, to a penalty not exceeding Two Hundred Rupees, or to be imprisoned, with or without hard labour, for a period not exceeding six calendar months.

Notice to be given to Conservator, if vessel gets foul of Government moorings

XXI. If any vessel shall hook or get foul of any of the bouys or mooring laid down by or by the authority of the Local Government in any such Port, River, or Channel, the Master of such vessel shall not, nor shall any other person, except in case of emergency, lift such buoy or mooring for the purpose of unhooking or getting clear from the same, without the assistance of the Conservator, and the Conservator, immediately on receiving notice of such accident, shall assist and superintend the clearing of such vessel; and the Master of such vessel shall, upon demand, pay such reasonable expense as may be incurred in clearing the same. If any person shall offend against the provisions of this Section, he shall be liable to a penalty not exceeding One Hundred Rupees for every such offence.

Penalty.

Penalty for wilfully loosening a vessel from its moorings.

XXII. If any person shall wilfully and without lawful excuse loosen or remove from its moorings any vessel within any such Port, River, or Channel, without leave or authority from the owner or Master of such vessel, such person shall, for every such offence, forfeit a sum not exceeding Two Hundred Rupees, or, at the discretion of the Magistrate, be imprisoned, with or without hard labour, for a period not exceeding six calendar months.

Conservator may raise any wreck, &c, impeding navigation within the Port.

XXIII. If any vessel shall be wrecked, stranded, or sunk, in any such Port, River, or Channel, so as to impede or be likely to impede the navigation thereof, the Conservator may cause the same to be raised, removed, or destroyed; and, unless the expense of such work shall be repaid within one month after the completion thereof, may recover the same on behalf of the Local Government in the manner provided by Section XXXIX. of this Act.

Expense how recoverable.

XXIV. If any ballast or rubbish, or if any other thing likely to

Penalty for improperly discharging ballast, &c.

form a bank or shoal, or to be detrimental to navigation, shall, without lawful excuse, be cast or thrown into any such Port, River, or Channel, or into or upon any place on shore, from which the same shall be liable to be washed into any such Port, River, or Channel, either by ordinary or high tides, or by storms or land-floods, the person who shall so cast or throw the same, or cause the same to be so cast or thrown as aforesaid, and the Master of any vessel from which the same shall be cast or thrown, shall forfeit and pay a sum not exceeding Two Hundred Rupees over and above any expenses which may be incurred in removing the same; but this provision shall not extend to any case in which such ballast or other things shall be cast or thrown into any such Port, River, or Channel, with the consent in writing of any Conservator, or within any limits within which such act may be authorized by Government.

Proviso.

XXV. If any person shall grave, bream, or smoke any vessel in any such Port, contrary to the directions of the Conservator, or at any time or within any limits at or within which such act shall be prohibited by any order of the Local Government, every such person, and also the Master of such vessel, shall forfeit a sum not exceeding Five Hundred Rupees for every such offence.

Penalty for graving &c, vessel within prohibited limits.

XXVI. If any person shall boil or heat any pitch, tar, resin, dammer, turpentine, oil, or other such combustible matter on board any vessel within any such Port, at any place where such act shall be prohibited by order of the Local Government or contrary to the order or directions of the Conservator, every such person, and also the Master of any vessel on board which such offence shall be committed, shall be liable to a penalty not exceeding Two Hundred Rupees for every such offence.

Penalty for boiling pitch, &c, on board a vessel within prohibited limits.

XXVII. If any person shall, by candle-light, or other artificial light, draw off spirits on board any vessel within any such Port, every such person, and also the Master of every such vessel, shall be liable for every such offence to a penalty not exceeding Two Hundred Rupees.

Penalty for drawing spirits by candle-light, &c.

XXVIII. In every such Port to which the provisions of this

Special Rule Vessels above 200 tons to be provided with a force-pump, &c.

Section shall be specially extended by an order of the Local Government, every vessel exceeding the burthen of 200 tons shall be provided with a proper force-pump, hose, and appurtenances, for the purpose of extinguishing any fire that may occur on board, and the Master of every such vessel who, after having been required by the Conservator to comply with such provision, shall, without lawful excuse, neglect or refuse so to do for the space of seven days after such requisition, shall be liable to a penalty not exceeding Five Hundred Rupees.

Penalty.

XXIX. The Local Government may, by order, fix the limits within which vessels shall be prohibited from having on board, in any Port, River, or Channel subject to this Act, any quantity of gunpowder, rockets, or other combustible ammunition, exceeding altogether fifty pounds in weight, whether manifested for delivery or not; and in such case the Local Government shall appoint a proper place of deposit for such gunpowder, rockets, or combustible ammunition in excess of the quantity above allowed, and an Officer to receive the same.

Vessels not to have powder, &c, exceeding 50 lbs. on board within certain limits to be fixed by Government.

Government to appoint place of deposit for powder.

XXX. The Local Government may, in such case, by order, fix the times at or within which, and the manner in which such gunpowder, rockets, or combustible ammunition shall be landed and deposited by any vessel inward-bound, and also the times at or within which, and the manner in which the same shall be taken on board any vessel from such place of deposit.

Government to fix the time and manner of landing and shipping powder, &c.

XXXI. The Master of such vessel shall upon such gunpowder, rockets, or combustible ammunition being deposited, make and sign a declaration in writing that there is not then, to his knowledge or belief, on board such vessel, any gunpowder, rockets, or combustible ammunition exceeding the weight of fifty pounds, and in case such Master shall knowingly make any false declaration with respect to any of the matters aforesaid, he shall be liable to a penalty not exceeding Two Hundred Rupees.

Master to make declaration.

Penalty.

XXXII. The Officer with whom such gunpowder or other combustible

Officer to give receipt and to account for powder deposited.

ammunition shall be deposited, shall give a receipt for the same to the Master or other person making the deposit, and he shall be accountable to such Master or other person for the re-delivery of the same.

If by stress of weather powder is not landed, notice must be given thereof.

XXXIII. If any vessel shall be prevented by stress of weather from landing or depositing such gunpowder, rockets, or other combustible ammunition, in excess of the quantity allowed as aforesaid, the Master or owner of such vessel shall, so soon as the weather may permit, land and deposit the same at the place so appointed as aforesaid, or shall forthwith give notice to the Conservator, or other Officer who shall be named for that purpose by any order of the Local Government, of his having such gunpowder, rockets, or other combustible ammunition on board, and shall obey his directions relating to the same.

Time, &c., for vessels outward-bound to take in powder may be fixed by Government.

XXXIV. The Local Government may also, in respect to such Port, by order, fix the times and places at which, and the manner in which, vessels outward bound, requiring to take in any gunpowder, rockets, or other combustible ammunition, exceeding the quantity abovementioned, shall take in the same, whether such gunpowder, rockets, or other combustible ammunition, shall have been previously landed from such vessel or not.

Penalties for having prohibited powder, &c. on board.

XXXV. The Master of any vessel which shall have on board any gunpowder, rockets, or other combustible ammunition, contrary to the provisions of this Act, shall be liable to a penalty not exceeding Two Hundred Rupees for every such offence; and all gunpowder, rockets, or other combustible ammunition which shall be on board any vessel, contrary to the provisions of this Act, shall be forfeited to Government, and may be seized by the Conservator, or by any Collector of Customs, or by any Custom House Officer, or other Officer authorized in that behalf by any general or special order of the Local Government, within the limits of their respective jurisdictions. Nothing in this Act contained shall extend to any gunpowder, rockets, or other ammunition belonging to Government, or carried for the use of troops of Her Majesty or of the Honorable East India Company on board of any such vessel.

Exception.

XXXVI. If any person shall, without lawful excuse, discharge any

Guns not to be discharged in Port

Exception

Penalty

gun, musket, or other fire-arm in any Port subject to this Act, or on or from the landing-places, piers, wharfs, or quays thereof, except a gun loaded only with gunpowder for the purpose of making a signal of distress, or for such other purpose as may be allowed by the Local Government, such person shall, for every such offence, be liable to a penalty not exceeding Fifty Rupees.

Special Rule

Unauthorized person not to search for lost anchors or stores

Penalty

XXXVII. In every Port, River, or Channel, subject to this Act, to which the provisions of this Section shall be specially extended by an order of the Local Government, no person, unless duly authorized by the Conservator, shall creep or sweep for anchors, cables, or other stores, lost or supposed to be lost, in such Port, River, or Channel. Every person offending against this provision shall be liable to a penalty not exceeding One Hundred Rupees

Salvage payable for wreck, &c

Register to be kept

XXXVIII. If any anchors, wreck, stores, or other property shall be recovered by any Officer employed by the Local Government for that purpose, from the bed of any Port, River, or Channel subject to this Act, the Local Government shall be entitled to receive a reasonable sum for salvage, having regard to the place of recovery A registry shall be kept of all anchors, wreck, or other property so recovered, in such manner, and at such place or places as the Local Government may direct, and such registry shall be opened to public inspection at reasonable office hours, except on Sundays and such holidays as the Local Government may direct; and such registry shall contain a description of such property, and of the times and places where the same shall have been recovered

Property recovered may in certain cases be sold.

Proceeds how to be applied

XXXIX. If the property recovered under the last preceding Section, or by a Conservator acting under Section XXIII of this Act, is unclaimed, or if the person claiming the same refuses to pay the amount due to the Local Government in respect thereof, such property, if of a perishable nature, may be sold forthwith; and if not of a perishable nature, may be sold at any period, not less than six months after the recovery thereof, by public Auction, and on the realization of the proceeds, the amount due to the Local Government for salvage, or for the expenses incurred under Section XXIII. as aforesaid, shall be deducted therefrom, and credited to the Local Government,

and the balance shall be paid to the person entitled to the property recovered, or if no such person shall appear and claim the same, shall be held in deposit for payment, without interest, to any person who may thereafter establish his right to the same.

Special Rule. Removing stones, &c., or injuring shores or Port, prohibited.

XL. In every Port, River, or Channel subject to this Act, to which the provisions of this Section shall be specially extended by an order of the Local Government, no person, without the permission of the Conservator, shall remove or carry away any rock, stones, shingle, gravel, or soil, or any artificial protection from any part of the Bank or Shore of such Port, River, or Channel; and no person shall sink or bury in any part of such Bank or Shore, whether the same be public or private property, any mooring-post, anchor, or any other thing which is likely to injure, or to be used so as to injure such Bank or Shore, except with the permission of the said Conservator, and with the aid or under the inspection of such person or persons (if any) as he may appoint to take part in or overlook the performance of such work. If any person shall offend against the provisions of this Section, he shall be liable to a penalty not exceeding One Hundred Rupees for every such offence, and to pay the expenses of repairing the injury (if any) done to such Bank or Shore.

Penalty.

Levy of Port-dues.

XLI. The dues and fees now usually collected at the several Ports within the said Territories may, during the period of one year from the time of the passing of this Act, be collected at such Ports respectively. No Port-dues or fees shall hereafter be levied in any such Port, except under the authority of this Act or of any Act hereafter to be passed for fixing the amount thereof; but nothing herein contained shall prevent the levy, as heretofore, of light-duties under Regulation VI of 1831 of the Bombay Code and Act XIII of 1854, or of fines or duties payable under Act XXVII of 1850.

Local Government may vary the Port-dues.

XLII. The Local Government may, from time to time, vary the rate at which Port-dues and fees shall be levied in any such Port, River, or Channel, in such manner as, having regard to the receipts and charges on account of that port, it may deem expedient, by reducing or raising the dues and fees, or any of them; provided that the rates shall not in any case exceed the amount authorised to be taken by this or any subsequent Act.

Proviso.

Local Government may also remit or reduce Port-dues on any vessels during the period of one year after the passing of this Act.

XLIII. The Local Government may also, during the period of one year after the passing of this Act, remit altogether or reduce the rate of dues and fees now usually collected on any particular description of vessels. *(a)*

Distinct accounts of Port-dues to be kept, and an abstract thereof to be published.

XLIV. For every Port at which Port-dues shall be levied under this or any subsequent Act, a distinct account, to be called, the Account of the Port Fund of the Port to which it relates, shall be kept by such Officer as the Local Government may appoint for that purpose. This account shall show in complete detail the receipts and charges of the Port; and an abstract statement of every such account shall be published annually, as soon after the 1st of May of each year as may be practicable,. in which statement the balance at the close of the year at the credit or debit of the Port shall be shown. If, for any of the purposes of this Act, an advance of money shall have been or shall be made by Government on account of any Port subject to this Act, simple interest upon that advance, or upon so much of it as remains or shall remain unrepaid, at such rate as the Governor General in Council may determine, shall be charged in the Port Fund Account thereof; all expenses, including the pay and allowances of all persons upon the establishment of the Port, the cost of buoys, beacons, lights, and all other works maintained chiefly for the benefit of vessels being in, or entering, or leaving the Port, or passing through the Rivers or Channels leading thereto, but excluding receipts and expenses on account of Pilotage, incurred for the sake of every such Port, shall be charged in the Port Fund Account of that Port. And all money, including salvage money, proceeds of waifs, and fines, received under this Act, at or on account of every such Port, shall be credited in the Port Fund Account of that Port.

Collection of Port-dues.

XLV. The Collector of Customs at every such Port, or such other Officer as the Local Government shall appoint, shall collect the Port-dues above-mentioned. The Officer to whom any such Port-dues shall be paid shall grant to the person paying the same a proper voucher in writing under his hand, describing the name of his office, the port or place at which the same shall be

Voucher to be given.

(a) Under the authority vested in them by this and the foregoing Sections the Government have suspended "the levy of Port-dues of any description at the Island of Paumben for three years from the 6th November 1855."—Vide *Fort St. George Gazette, 20th November,* 1855, p. 1393.

paid, and the name, tonnage, and other proper description of the vessel in respect of which such payment shall have been made.

Master to report the arrival of vessel to Harbour Master.

XLVI. Within twenty-four hours after the arrival, within the limits of any such Port, of any vessel liable to the payment of Port-dues under this or any subsequent Act, the Master of such vessel shall report such arrival to the Conservator of such Port; and if any Master of a vessel shall, without lawful excuse, fail to make such report within the time aforesaid, he shall be liable to a penalty not exceeding One Hundred Rupees for every such offence.

Penalty.

Conservator may in certain cases ascertain the draught, and charge the expense thereof to the Master.

XLVII. If any vessel liable to the payment of Port-dues under this or any subsequent Act shall be in any such Port, without proper marks on the stem and stern posts thereof for denoting the draught of such vessel, the Conservator may, in any case in which it shall be necessary to ascertain the draught of such vessel, cause the same to be ascertained by means of the operation of hooking, and the Master of such vessel shall be liable to pay the expenses of such operation.

Tonnage of vessel liable to Port-dues how to be ascertained.

XLVIII. In order to ascertain the tonnage of any vessel liable to pay Port-dues under this or any subsequent Act, the following Rules shall be observed:—

If registered.

Clause 1.—If such vessel be a British registered vessel, or a vessel registered under Act X of 1841, or Act XI of 1850, or under the laws for the time being in force for the registration of vessels in India, the Conservator may require the owner or Master of such vessel, or any person having possession of the register of such vessel, to produce such register for inspection; and if any such Master or other person shall, without lawful excuse, neglect or refuse to produce such register as aforesaid, he shall be liable to a penalty not exceeding One Hundred Rupees. If any such owner, Master, or other person as aforesaid shall neglect or refuse to produce such register, or otherwise to satisfy the Conservator as to what is the true tonnage of the vessel in respect of which such Port-dues shall be payable, it shall be lawful for the Conservator to cause such vessel to be measured, and the tonnage thereof to be ascertained; and in such case, the owner or Master of such vessel shall also be liable to pay the expenses of such measurement.

If not registered.

Clause 2.—If such vessel be not a British registered vessel, or a vessel registered under Act X of 1841, or Act XI of 1850, or under the laws for the time being in

force for the registration of vessels in India, and the owner or Master thereof shall fail to satisfy the Conservator as to what is the true tonnage of such vessel, according to the mode of measurement prescribed by the law in force for the time being for regulating the measurement of British registered vessels, the Conservator shall cause such vessel to be measured, and the tonnage thereof, according to the mode aforesaid, to be ascertained; and in such case, the owner or Master of such vessel shall be liable to pay the expenses of such measurement.

On refusal to pay Port-dues, &c. the Collector may distrain and sell.

XLIX. If the Master of any vessel, in respect of which any Port-dues, fees, or charges shall be payable under this or any subsequent Act, shall refuse or neglect to pay the same, or any part thereof, on demand, the Collector of Customs, or other person authorized to collect such Port-dues or charges, may distrain or arrest, of his own authority, such vessel, and the tackle, apparel, and furniture belonging thereto, or any part thereof, and detain the same until the amount due shall be paid; and in case any part of the said Port-dues or charges, or of the costs of the distress or arrestment, or of the keeping of the same, shall remain unpaid for the space of five days next after any such distress or arrestment so made, the Collector of Customs, or other such person as aforesaid, may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy the Port-dues, charges, and costs, including the costs of sale remaining unpaid, rendering the surplus (if any) to the Master of such vessel, upon demand.

No Port clearance to be granted until dues, &c, are paid.

L. The Officer of Government, whose duty it shall be to grant a Port clearance for any vessel, shall not grant such Port clearance, until the owner, agent, or Master of that vessel, or some other person, shall have paid all Port-dues, fees, and charges to which such vessel, or the owner or Master of such vessel in respect thereof shall be liable under this or any subsequent Act.

Conservator, &c, may go on board any vessel in discharge of his duty

LI. The Conservator or any of his Assistants may, whenever he shall suspect that any offence has been or is about to be committed in any vessel contrary to this Act, or whenever it is necessary for him so to do in the discharge of any duty imposed upon him by this Act; and the Collector of Customs or other Officer appointed to collect any Port-dues or other charges payable in respect of any vessel under this or any subsequent Act, may, whenever it is necessary so to do, for the performance of any duty imposed upon such Collector or other Officer

under this Act, either alone or with any other person or persons, go on board any vessel within the limits of any Port, River, or Channel subject to this Act. If the Master or other person in charge of such vessel shall, without lawful excuse, refuse to allow any such Conservator, or any of his Assistants, or any such Collector of Customs, or other Officer or person, to enter such vessel for the performance of any duty imposed upon him by this Act, he shall, for every such offence, be liable to a penalty not exceeding Two Hundred Rupees.

Penalty for preventing entry.

LII. If any person shall wilfully obstruct or hinder any Officer in the execution of any duty imposed, or power conferred by this Act, or shall assault or ill-treat him in the discharge of such duty, or in the exercise of such power, such person shall, for every such offence, be subject to a penalty not exceeding Two Hundred Rupees.

Penalty for obstructing Officer in discharge of his duty &c.

LIII. All acts, orders, or directions by this Act authorized to be done or given by any Conservator, may, subject to his control, be done or given by any Harbour Master or any Assistant of such Conservator or Harbour Master. And any person hereby authorized to do any act may call to his aid such assistance as may be necessary.

Powers of Assistant Conservator, of Harbour Master, and of Assistant Harbour Master.

LIV. If any vessel belonging to any of Her Majesty's subjects, or sailing under British colors, shall hoist, carry, or wear, within the limits of any Port, River, or Channel subject to this Act, any flag, jack, pendant, or colors, the use whereof on board such vessel shall have been prohibited by the Statute 17 and 18 Victoria Chapter 104, or any other Statute now or hereafter to be in force, or by any Proclamation made or to be made in pursuance of any such Statute, or by any of Her Majesty's Regulations in force for the time being, the Master of such vessel shall, for every such offence, be liable to a penalty not exceeding Fifty Rupees; and such penalty shall be in addition to any other penalty which may be recoverable under the said Statute, or any future Statute to be made in that behalf; and it shall be lawful for any Officer of the Indian Navy, within the limits of such Port, River, or Channel, or for the Conservator of such Port, to enter on board any such vessel, and to seize and take away any flag, jack, pendant, or color so unlawfully hoisted, carried, or worn on board the same.

Penalty for hoisting unlawful colors in Port.

LV. All offences against this Act, shall be punishable in a sum-

Offences how punishable and penalties how to be recovered

mary manner by a Magistrate. And in addition to the means prescribed by Act II of 1839, the provisions of which are hereby extended to all penalties imposed under this Act, it shall be lawful for a Magistrate, by Warrant under his hand, to cause the amount of any such penalty imposed upon the owner or Master of any vessel for any offence committed on board of such vessel, or in the management thereof, or otherwise in relation thereto, whereof such owner or Master shall be convicted, to be levied by distress and sale of such vessel, and the tackle, apparel, and furniture thereof, or so much thereof as shall be necessary.

Costs of conviction.

LVI. In case of any conviction under this Act, the convicting Magistrate may order the offender to pay the costs of such conviction, in addition to any penalty or expenses to which he may be liable. Such cost may be assessed by the Magistrate, and may be levied and recovered in the same manner as any penalty under this Act.

Damages, &c. payable under this Act, how to be ascertained and recovered.

LVII. In every case in which any person shall be liable, under the provisions of this Act, to pay any sum of money, damages, or expenses not exceeding One Thousand Rupees, the same may be recovered and levied in the same manner as any penalty under this Act, and, if necessary, the amount thereof may be fixed and assessed by the Magistrate before whom the case shall be tried.

Costs of Distress.

LVIII. In any case in which any penalty, damages, or expenses shall be levied under this Act, by distress and sale, the costs of such distress and sale may be levied in addition to such penalty, damages, or expenses, and in the same manner.

Magistrate to determine the amount to be levied in case of dispute.

LIX. If any dispute shall arise concerning the amount leviable by any distress or arrestment by virtue of this Act, or the charges or costs payable under the last preceding Section, the person making such distress or using such arrestment may detain the goods distrained or arrested, or the proceeds of the sale thereof, until the amount to be levied shall have been determined by a Magistrate, who, upon application made to him for that purpose, shall have power to determine such amount, and to award such costs to be paid by either of the parties to the other of them, as he shall think reasonable; and payment of such costs, if not paid on demand, shall be enforced in the same manner as any penalty under this Act.

LX. Nothing in this Act shall extend to any vessel belonging to,

Act not to extend to vessels of war, nor to affect any private right of property, nor any Customs law or regulation.

or in the service of Her Majesty, or of the East India Company, or to any vessel of war belonging to any Foreign Prince or State; nor to deprive any person of any right of property or other private right, except as hereinbefore expressly provided; nor to affect any law or regulation relative to the Customs; nor any order or direction which shall have been lawfully made or given in pursuance of the provisions of any such law or regulation.

Indemnity to East India Company against default of Harbour Master, Pilot, &c.

LXI. The East India Company shall not be answerable for any act or default of any Master Attendant, Harbour Master, or other Conservator of any Port, River, or Channel subject to this Act; or of any Pilot; or of Deputy, or Assistant of any of the Officers above-mentioned; or of any person acting under the authority or directions of any such Officer or Assistant; done within the limits of such Port, River, or Channel; nor for any damage or injury sustained by any vessel in consequence of any defect in any of the moorings, hawsers, or other things belonging to the said Company, within the said limits, which may be used by such vessel. Provided that nothing in this Section shall protect the East India Company from an action in respect of any act done by or under the express order or sanction of Government.

Proviso.

Interpretation of word "Magistrate" in this Act.

LXII. The word "Magistrate" in this Act shall include a Justice of the Peace of the Presidency Towns of Calcutta, Madras, and Bombay, or for the Settlement of Prince of Wales' Island, Singapore, and Malacca, a Joint Magistrate, and any person lawfully exercising the powers of a Magistrate, and also any Deputy or Assistant Magistrate to the extent of the powers of such Deputy or Assistant Magistrate.

Jurisdiction over offences beyond the local limits of jurisdiction.

LXIII. Whereas divers Ports and navigable Rivers may be situated partly within the jurisdiction of one Magistrate, and partly within that of another, by reason whereof doubts may arise upon questions of jurisdiction over offences which may be committed contrary to this Act; It is therefore enacted that, if any person shall be guilty of an offence against the provisions of this Act, in any Port, River, or Channel subject to this Act, such offence shall be punishable by any Magistrate having jurisdiction over any district or place adjoining such Port, River, or Channel, or adjoining either side of that part of the navigable River or Channel in which such offence shall be committed; and that such Ma-

gistrate may exercise all the powers of a Magistrate under this Act, in the same manner and to the same extent as if such offence had been committed locally within the limits of his jurisdiction, notwithstanding the offence may not have been committed locally within such limits; and in case any such Magistrate shall exercise the jurisdiction, hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

Conviction to be quashed on merits only. Form of conviction, &c.

LXIV. No conviction, order, or judgment of any Justice of the Peace shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds; but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment, in obedience to any writ of *certiorari*; and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Construction of Act.

LXV. In the construction of this Act, unless there be something in any special provision thereof, or in the context, repugnant to such construction, the words "Local Government" shall be deemed to mean the person or persons for the time being immediately administering the Executive Government of that portion of the Territories under the Government of the East India Company in which the Port, River, or Channel in question is situated. The word "Vessel" shall include any thing made for the conveyance by water of human beings or of property. The word "Master," when used in relation to any vessel, shall mean and include any person having for the time being the charge, or command, or control of such vessel.

ACT No. XXIII. OF 1855.

Passed on the 13th of August, 1855.

An Act to amend the Law relating to the administration of the Estates of deceased persons charged with money by way of Mortgage.

Preamble.

WHEREAS it is expedient that the Law, under which the real and personal assets of deceased persons subject to the English Law are administered, should be amended; It is enacted as follows:—

Mortgage debts on property descending or devised, how to be discharged

I. After this Act shall have come into operation, if any person shall die seised of, or entitled to any estate or interest in any land or other hereditaments within the Territories in the possession of, and under the Government of the East India Company, which shall, at the time of his death, be charged with the payment of any sum or sums of money by way of mortgage, and such person shall not by his will or deed or other document have signified any contrary or other intention, the heir or devisee to whom such land or hereditaments shall descend or be devised shall not be entitled to have the mortgage debt discharged or satisfied out of the personal estate or any other real estate of such person, but the land or hereditaments so charged shall, as between the different persons claiming through or under the deceased person, be primarily liable to the payment of all mortgage-debts with which the same shall be charged, every part thereof, according to its value, bearing a proportionate part of the mortgage-debts charged on the whole thereof: Provided always, that nothing herein contained shall affect or diminish any right of the mortgagee of such lands or hereditaments to obtain full payment or satisfaction of his mortgage-debt, either out of the personal estate of the person so dying as aforesaid or otherwise Provided also that nothing herein contained shall affect the rights of any person claiming under, or by virtue of any will, deed, or document already made, or to be made, before this Act shall have come into operation.

Proviso as to the right of mortgagee to full satisfaction from the personal estate of the deceased.

Proviso as to claims made prior to this Act.

ACT No. XXIV. OF 1855.

Passed on the 13th of August, 1855.

An Act to substitute penal servitude for the punishment of Transportation in respect of European and American Convicts, and to amend the Law relating to the removal of such Convicts.

Preamble.

WHEREAS, by reason of the difficulty of providing a place to which Europeans or Americans can, with safety to their health, be sent for the purpose of undergoing sentences of transportation or of imprisonment for long terms, it has become expedient to substitute other punishment for that of Transportation, and to amend the law relating to the removal of European and

American Convicts for the purpose of imprisonment; It is enacted as follows:—

No European or American to be sentenced to transportation.

I. After the commencement of this Act, no European or American shall be liable to be sentenced or ordered, by any Court within the territories in the possession and under the Government of the East India Company, to be transported.

Terms of penal servitude instead of the present terms of transportation.

II. Any person who, but for the passing of this Act, would, by any Law now in force, or which may hereafter be in force, in any part of the said territories, be liable to be sentenced or ordered, by any such Court, to be transported, shall, if a European, or American, be liable to be sentenced or ordered to be kept in penal servitude for such term as hereinafter mentioned.

The terms of penal servitude to be awarded by any sentence or order, instead of the term of transportation to which any such offender would, but for the passing of this Act, be liable, shall be as follows: (that is to say)—

Instead of transportation for seven years, or for a term not exceeding seven years, penal servitude for the term of four years.

Instead of any term of transportation exceeding seven years and not exceeding ten years, penal servitude for any term not less than four and not exceeding six years.

Instead of any term of transportation exceeding ten years and not exceeding fifteen years, penal servitude for any term not less than six and not exceeding eight years.

Instead of any term of transportation exceeding fifteen years, penal servitude for any term not less than six and not exceeding ten years.

Instead of transportation for the term of life, penal servitude for the term of life. And in every case where, at the discretion of the Court, one of any two or more of the terms of transportation hereinbefore mentioned might have been awarded, the Court shall have the like discretion to award one of the two or more terms of penal servitude hereinbefore mentioned, in relation to such terms of transportation.

Discretion of Courts as to alternative punishments not to be affected.

III. Provided always that nothing herein contained shall interfere with or affect the authority or discretion of any Court in respect of any punishment which such Court may now award or pass on any offender other than trans-

portation; but where such other punishment may be awarded at the discretion of the Court instead of transportation or in addition thereto, the same may be awarded instead of, or (as the case may be) in addition to, the punishment substituted for transportation by this Act.

Effect of pardon granted upon condition of penal servitude.

IV. If any offender sentenced by any Court within the said territories to the punishment of death shall have mercy extended to him, upon condition of his being kept in penal servitude for life, or for any term of years, all the provisions of this Act shall be applicable to such offender in the same manner as if he had been lawfully sentenced under this Act to the term of penal servitude specified in the condition.

The Executive Government may direct Europeans or Americans under sentence of transportation to be kept in penal servitude.

Term of penal servitude in such case.

V. It shall be lawful for the Governor General of India in Council, or for the person or persons for the time being administering the Executive Government of any Presidency or place in which a European or American has been lawfully sentenced by any Court to be transported, to order such person to be kept in penal servitude for the shortest term of penal servitude substituted by this Act for a term of transportation of the same extent as that to which the offender was sentenced, or that portion thereof which he shall not have undergone, provided that no person shall be kept in penal servitude under the provisions of this Section after the expiration of the term of transportation to which he was sentenced.

Persons under sentence of penal servitude where to be sent and how to be dealt with.

VI. Every person who, under this Act, shall be sentenced or ordered to be kept in penal servitude, may, during the term of the sentence or order, be confined in any such prison or place of confinement within any part of the said territories as the Governor General of India in Council shall, by any General Order, from time to time direct; and may, during such time, be kept to hard labour; and such person may, until he can conveniently be removed to such prison or place of confinement, be imprisoned, with or without hard labour, and dealt with in all other respects in the same manner as persons sentenced by the convicting Court to imprisonment with hard labour may, for the time being, by law be dealt with. Provided that the time of such intermediate imprisonment, and the time of removal from one prison to another, shall be taken and reckoned in discharge or part discharge of the term of the sentence.

Intermediate imprisonment.

Proviso.

All Acts, &c., respecting convicts under sentence of transportation or imprisonment with hard labour made applicable for the purposes of this Act.

VII. All Acts and Regulations now in force within any part of the said territories, with respect to convicts under order or sentence of transportation, or under order or sentence of imprisonment with hard labour, shall, so far as may be consistent with the express provisions of this Act, be construed to extend and be applicable to persons under any order or sentence of penal servitude made or passed under this Act.

Removal of European or American convicts under sentence of imprisonment from one prison to another.

VIII. The person or persons for the time being administering the Executive Government of the Presidency or place in which any European or American convict is imprisoned, under a sentence or order of imprisonment, for a term exceeding one year, whether with or without hard labour, may, with the consent of the Governor General of India in Council, order the removal of such prisoner from the prison or place in which he is confined to any other public prison or place of confinement within any part of the said territories; and such order shall be a sufficient authority for imprisoning the convict during the remainder of the term mentioned in the sentence, or any part of such term, in the jail to which the prisoner is removed.

Governor General in Council may grant a license to be at large to any convict under sentence of penal servitude.

IX. It shall be lawful for the Governor General of India in Council to grant to any convict who may hereafter be sentenced or ordered to be kept in penal servitude, a license to be at large within the said territories, or in such part thereof as in such license shall be expressed, during such portion of his term of servitude, and upon such conditions in all respects as to the Governor General of India in Council shall seem fit; and it shall be lawful for the said Governor General in Council at any time to revoke or alter such license by a like order.

Holder of such license not to be imprisoned &c.

X. So long as such license shall continue in force and unrevoked, such convict shall not be liable to imprisonment or penal servitude by reason of his sentence, but shall be allowed to go and remain at large according to the terms of such license.

If license revoked, the convict may be apprehended and committed to prison.

XI. In case of the revocation of any such license as aforesaid, it shall be lawful for one of the Secretaries to the Government of India, by order in writing, to signify to any Justice of the Peace or Magistrate that such license has been revoked, and to require such Justice

or Magistrate to issue a warrant for the apprehension of the convict to whom such license was granted, and such Justice or Magistrate shall issue his warrant accordingly; and such warrant may be executed by any officer to whom it may be directed or delivered for that purpose in any part of the said territories, and shall have the same force and effect in any place within such Territories as if the same had been originally issued or subsequently endorsed by a Justice or Magistrate, or other lawful authority having jurisdiction in the place where the same shall be executed; and such convict, when apprehended under such warrant, shall be brought, as soon as he conveniently may be, before the Justice or Magistrate by whom the said warrant shall have been issued, or some other Justice or Magistrate of the same place, or before a Magistrate or Justice having jurisdiction in the zillah or district in which such convict shall be apprehended, and such Justice or Magistrate shall thereupon make out his warrant, under his hand and seal, for the re-commitment of such convict to the prison or place of confinement from which he was released by virtue of the said license, and such convict shall be re-committed accordingly, and shall thereupon be liable to be kept in penal servitude for such further period as, with the time during which he may have been imprisoned under the original sentence or order, and the time during which he may have been at large under an unrevoked license, shall be equal to the period mentioned in the original sentence or order.

Penalty for breach of condition of the license.

XII. If a license be granted under Section IX of this Act upon any condition specified therein, and the convict to whom the license is granted violate any such condition, or shall go beyond the limits specified in the license, or knowing of the revocation of such license, shall neglect forthwith to surrender himself, or shall conceal himself, or endeavour to avoid being apprehended, he shall be liable upon conviction to be sentenced to penal servitude for a term not exceeding the full term of penal servitude mentioned in the original sentence or order.

Act not to affect the provisions of certain English Statutes.

XIII. Nothing in this Act is intended to alter or affect the provisions of the 12 and 13 Victoria, Chapter 43, or any Act of Parliament passed in the United Kingdom of Great Britain and Ireland since the 28th of August 1833, or which may hereafter be passed.

What to be deemed proof that a person is a European or an American.

XIV. Any sentence or order upon any person describing him as a European or American shall be deemed, for the purposes of this Act, to be conclusive of the fact that such person is a European or American within the meaning of this Act.

Construction of Act.

XV. The word "European," as used in this Act shall be understood to include any person usually designated a European British subject. Words in the singular number or the masculine gender shall be understood to include several persons as well as one person, and females as well as males, unless there be something in the context repugnant to such construction.

Commencement of Act.

XVI. This Act shall commence from and after the first day of November 1855.

ACT No. XXV OF 1855.

Passed on the 8th of September, 1855.

An Act to empower the Session Judge of Coimbatore to hold Sessions at Ootacamund on the Neilgherry Hills.

Preamble.

WHEREAS it is expedient to provide that persons charged with offences committed on the Neilgherry Hills, for which they are amenable to the jurisdiction of the Session Judge of Coimbatore, shall be tried at Ootacamund; It is enacted as follows.—

Session Judge of Coimbatore empowered to hold Sessions at Ootacamund on the establishment of a subordinate Criminal Court constituted according to Regulation VIII of 1827 of the Madras Code.

I. When the Governor in Council of Fort St. George shall establish at Ootacamund on the Neilgherry Hills a subordinate Criminal Court constituted according to Regulation VIII of 1827 of the Code of Fort St. George,(a) it shall be lawful for the Session Judge of Coimbatore to hold Sessions at Ootacamund for the trial of persons committed by that Court for offences subject to his jurisdiction.

Principal Sudder Ameen to give notice of commitment to Session Judge.

II. When the Principal Sudder Ameen of such Court shall commit for trial before the Court of Session for the Zillah of Coimbatore, a prisoner charged with a crime or misdemeanor subject to the jurisdiction of that Court, he shall give immediate notice of the commitment to the Session Judge, and the Session Judge shall, within two months from the date of the commitment, proceed to hold a Court at Ootacamund for the trial of such prisoner, and if any other prisoners shall have been committed in the meantime, he shall continue the Session of the Court until all such prisoners shall have been tried.

(a) A Civil and Criminal Court was established at Ootacamund on the 1st of November 1855, (*Fort St. George Gazette*, 30*th October* 1855, *p* 1289,) and it was opened for the despatch of business on the 5th of January 1856. (*Gazette*, 8*th January* 1856, *p*. 29)

Principal Sudder Ameen vested with certain Criminal powers.

III. It shall be lawful for the Principal Sudder Ameen of the said Court to exercise all the powers of a Criminal Court constituted according to Regulation II of 1827; and also, by appointment of the Government of Fort St. George, all the powers of a Joint Magistrate.

ACT No. XXVI OF 1855.

Passed on the 19th of September, 1855.

An Act to facilitate the payment of small deposits in Government Savings' Banks to the representatives of deceased depositors.

Preamble.

WHEREAS it is expedient to facilitate the payment of small sums belonging to the estates of deceased depositors in the Savings' Banks established by Government within any part of the territories in the possession and under the Government of the East India Company to the representatives of such depositors: It is enacted as follows:—

Secretary of Government Savings' Bank, in certain cases, to pay without probate, &c., money belonging to the estate of a deceased depositor.

I. If a depositor in any Government Savings' Bank shall die leaving therein a sum of money not exceeding Five Hundred Rupees, and probate of his will or letters of administration of his estate or effects, or a certificate granted under Act No. XX of 1841, or under Section IV of Act No. X of 1851, shall not be produced to the Secretary of such Bank within the period of two months from the time of the death of the said depositor, it shall be lawful for the Secretary of such Bank to pay the same to any person or persons who shall appear to him to be entitled to receive the same or to administer the effects of the deceased; and such payment shall be a full indemnity and discharge from all further liability in respect of the money so paid; but nothing herein contained shall preclude any executor or administrator or representative of the deceased from recovering from the person or persons receiving the same the amount remaining in his or their handsafter deducting the amount of all debts or other demands lawfully paid or discharged by him in due course of administration; and any creditor or claimant against the estate of the deceased shall be at liberty to recover his debt or claim out of the money so paid to such person or persons and remaining in his or their hands unadministered, in

Payment to be a discharge.

Saving of right of executor, &c.

And of creditor.

the same manner and to the same extent as if such person or persons had obtained letters of administration to the estate of the deceased.

Security for due administration

II. The Secretary of any such Bank may take such security as he shall think necessary from any person or persons to whom he shall pay any money under the preceding Section, for the due administration and distribution of the money so paid, and may assign the same to any person or persons interested in the due administration and distribution thereof, which person or persons may sue on the same in his or their own names.

Power to administer oath, &c.

Penalty for false testimony.

III. For the purpose of ascertaining the right of the person or persons claiming to be entitled as aforesaid, it shall be lawful for the Secretary of any such Bank to administer an oath or affirmation; and every person who, having been sworn or having taken a solemn affirmation under this Act, shall wilfully give false testimony upon any examination authorized by this Act, shall be deemed guilty of perjury, and, if convicted, shall be liable to be punished accordingly.

Administrator General not to grant certificate in respect of money deposited

IV. From and after the passing of this Act, no Administrator General of a Presidency shall grant a certificate under Section XLIII of Act No. VIII of 1855 in respect of any sum of money deposited in a Government Savings' Bank.

Act not to apply to money belonging to the estates of European Soldiers, Sailors, &c.

V. Nothing in this Act contained shall apply to the payment of any money deposited in a Government Savings' Bank belonging to the estate of any European Officer or Soldier dying in Her Majesty's Service in India, or of any European Officer or Soldier dying in the Service of the East India Company, or to the estate and effects of any Officer, Seaman, or other person dying in the Marine Service of the said Company called the Indian Navy, or to the estate and effects of any person who, at the time of his death, was a deserter from any of the said Services.

ACT No. XXVII OF 1855.

Passed on the 19th of September, 1855.

An Act to enable the Banks of Bengal, Madras, and Bombay to transact certain business in respect of Government Securities and Shares in the said Banks.

WHEREAS it is expedient to authorize the several Banks of Ben-

Preamble.

gal, Madras, and Bombay to transact the kinds of business hereinafter mentioned: It is enacted as follows.—

Banks of Bengal, Madras, and Bombay empowered to transact certain business in respect of Government Securities and Shares in the said Banks.

I. In addition to the kinds of business in which the Bank of Bengal, the Bank of Madras, and the Bank of Bombay may now by law be respectively engaged, it shall be lawful for any of the said Banks to transact all or any of the following kinds of business, either with or without receiving commission or payment for the transaction thereof, that is to say·

First.—To take charge of any Government Securities or Shares in any of the said Banks.

Second.—To receive the interest or dividends on any such Securities or Shares.

Third.—To invest any money deposit in any of the said Banks in the purchase of any such Securities or Shares.

Fourth.—To sell or transfer any such Securities or Shares deposited with them, or to receive any principal money that may become payable thereon.

Fifth.—To re-invest the principal, interest, or dividends so received, or the proceeds arising from such sale in Government Securities or Shares in any of the said Banks, or to hold or pay such principal, interest, dividends, or proceeds, or, according to the instruction of their constituents and at their risk, to remit the same by public or private Bills, whether payable in India or not, and to do all acts necessary or proper for the purpose of making such remittances. Provided that, if any such remittance be made by a Note or Bill of any of the said three Banks, the same must be payable in India on demand.

ACT No. XXVIII OF 1855.

Passed on the 19th of September, 1855.

An Act for the repeal of the Usury Laws.

Preamble.

WHEREAS it is expedient to repeal the laws now in force relating to Usury. It is enacted as follows.—

I. Section XXX of the Act of Parliament, passed in the thirteenth

Laws repealed

year of the reign of his late Majesty King George the Third, intituled "An Act for establishing certain Regulations for the better management of the affairs of the East India Company as well in India as in Europe," shall not apply in any part of the territories in the possession and under the Government of the said Company to any bond, contract, or assurance whatsoever, which shall be made or entered into within the said territories after the passing of this Act; and the several parts of Regulations mentioned in the Schedule hereto annexed, and all laws in force in any part of the said territories relating to Usury, are hereby repealed.

What rate of interest shall be decreed by the Court in any suit.

II. In any suit in which interest is recoverable, the amount shall be adjudged or decreed by the Court at the rate (if any) agreed upon by the parties; and if no rate shall have been agreed upon, at such rate as the Court shall deem reasonable.

Rate of interest upon a judgment or decree.

III. Whenever a Court shall direct that a judgment or decree shall bear interest, or shall award interest upon a judgment or decree, it may order the interest to be calculated at the rate allowed in the judgment or decree upon the principal sum adjudged, or at such other rate as the Court shall think fit.

Contract for the usufruct of property, in lieu of interest, to be binding.

IV. A mortgage or other contract for the loan of money, by which it is agreed that the use of usufruct of any property shall be allowed in lieu of interest, shall be binding upon the parties.

What amount of interest to be deposited in certain cases of conditional sales under the Bengal Regulations.

V. Whenever, under the Regulations of the Bengal Code, a deposit may be made of the principal sum and interest due upon any mortgage or conditional sale of land hereafter to be entered into, the amount of interest to be deposited shall be at the rate stipulated in the contract, or, if no rate has been stipulated and interest be payable under the terms of the contract, at the rate of twelve per centum per annum. Provided that, in the latter case, the amount deposited shall be subject to the decision of the Court as to the rate at which interest shall be calculated.

Proviso

Rate of interest on future adjustments of accounts.

VI. In any case in which an adjustment of accounts may become necessary between the lender and the borrower of money upon any mortgage, conditional sale of landed property, or other contract whatsoever, which

may be entered into after the passing of this Act, interest shall be calculated at the rate stipulated therein; or, if no rate of interest shall have been stipulated and interest be payable under the terms of the contract, at such rate as the Court shall deem reasonable.

Transactions previous to this Act not to be affected.

VII. Nothing hereinbefore contained shall prejudice or affect the rights or remedies of any person, or diminish or alter the liabilities of any person, in respect of any act done, or contract entered into, previously to the passing of this Act.

Commencement of Act.

VIII. This Act shall commence and take effect from the 1st day of January 1856.

SCHEDULE.

Sections IV, VI, VII, VIII, IX, X and XI, Regulation XV. 1793 of the Bengal Code.

Sections III, V, VI, VII, VIII, IX and X, Regulation XXXIV. 1803 of the same Code.

Clause 1 Section XXIII Regulation VIII. 1805 of the same Code, so far as it extends the above-mentioned Sections of Regulation XXXIV. 1803 to the Zillahs therein referred to.

Clauses 3, 4, 5 and 6, Section IX Regulation XIV. 1805 of the same Code; and so much of Section XI of the same Regulation as may be deemed to have extended to the Zillah of Cuttack any of the Clauses or Sections above-mentioned. or any law relating to Usury.

Section II Regulation XVII. 1806 of the same Code, so far as it extends to the province of Benares, subject to modifications, the above-mentioned Sections of Regulation XV. 1793; and Sections IV and VI of the same Regulation.

Sections II, IV, V and VI Regulation XXXIV. 1802 of the Madras Code, and Section VIII of the same Regulation, so far as it may be deemed to limit the rate of interest to be allowed on mortgaged bonds.

Section XXII Regulation IV. 1816 of the same Code.
Section XIV Regulation V. 1816 of the same Code.
Section XV Regulation VI. 1816 of the same Code.
Section XIII Regulation VII. 1816 of the same Code.

So much of Section VII Regulation II. 1825 of the same Code as limits the rate of interest to be allowed by the Courts on bonds or other instruments which shall be entered into after the passing of this Act.

Sections X, XI and XII Regulation V. 1827 of the Bombay Code.

ACT No. XXIX OF 1855.

Passed on the 23d of October, 1855.

An Act for amending Act No. VI *of* 1844.

Preamble.

WHEREAS it is prescribed, by Regulation II of 1803 of the Madras Code, that the Collectors of the public revenue, derived from duties on commodities by Sea or Land, as well as from other sources, shall be under the immediate control of the Board of Revenue, and shall obey all orders communicated to them by the authority of that Board; and it is expedient to amend Act No. VI of 1844, in so far as it may be construed to exempt any orders or proceedings of officers employed in the collection of Customs from the revision and control of the said Board of Revenue, and in so far as it makes the proceedings of Collectors of Customs depend upon the orders of Government in certain cases: It is enacted as follows:—

Board of Revenue empowered to revise proceedings of officers employed in the collection of Sea Customs and Land Frontier Customs.

I. The Board of Revenue is empowered to revise the proceedings of all officers employed in the collection of Sea Customs and Land Frontier Customs, under Act No. VI of 1844, and to annul or modify the orders of such officers.

Board, instead of Governor in Council, to pass orders in certain cases.

II. The Board of Revenue is empowered, instead of the Governor in Council, to pass orders in all cases in which, by the proviso in Section XVII Act No. VI of 1844 relating to baggage, and by Sections XXVI and LXI of the same Act, the proceedings of the Collectors of Customs are dependent on the orders of Government.

Appeal in certain cases to lie to Board instead of Governor in Council.

III. In case of imported goods being charged by a Collector of Customs, under the first rule annexed to Schedule A of Act No. VI of 1844, with a rate of duty above what they are liable to on the declaration of the importer as to the place of manufacture or production, an appeal shall lie to the Board of Revenue, instead of the Governor in Council.

ACT No. XXXI OF 1855.

Passed on the 14th of November, 1855.

An Act relating to the Emigration of Native Laborers to the British Colonies of Saint Lucia and Grenada.

Preamble.

WHEREAS it is expedient to render lawful the emigration of laborers, being Native inhabitants of the Territories in the possession and under the Government of the East India Company, to the British Colonies of Saint Lucia and Grenada, and to provide regulations for ships carrying Native Emigrants from the said Territories to either of the said Colonies: It is enacted as follows:—

Partial repeal of Act XIV of 1839.

I. Act No. XIV of 1839, in so far as it renders liable to penalties every person who shall make with any Native of India any contract for labor to be performed in the British Colonies of Saint Lucia and Grenada, or who shall knowingly aid or abet any Native of India in emigrating from the Ports of Calcutta, Madras, and Bombay, respectively, to the said Colonies, is repealed.

Natives may emigrate from Calcutta, Madras, and Bombay to Saint Lucia and Grenada.

II. After the passing of this Act, Native inhabitants of the said Territories shall be allowed to pass and to be conveyed as emigrant laborers to Saint Lucia and Grenada, respectively, from the Ports of Calcutta, Madras, and Bombay, respectively, but not otherwise.

Appointment and duties of Emigration Agents.

III. At each of the three Ports aforesaid, it shall be lawful for the Government of the Presidency or place within which the Port is situated, to authorize such person or persons as may be nominated by the Governments, of Saint Lucia and Grenada, respectively, to act as Emigration Agents at the aforesaid Ports respectively, and to exercise the powers conferred on Emigration Agents by this Act; and every such Emigration Agent shall make monthly reports to the Government to which he is subordinate of all matters transacted by him in pursuance of this Act.

Protector of Emigrants.

IV. The Protector of Emigrants at each of the three Ports aforesaid shall act as protector of laborers emigrating under the provisions of this Act from the aforesaid Ports respectively.

Emigrant ships to be licensed.

V. It shall not be lawful to convey any Emigrant, being a Native of India, who may embark for the purpose of laboring for hire in either of the said Colonies from any of the Ports aforesaid in any ship or vessel,

unless a license be obtained for carrying Emigrants in any such ship or vessel from the Government of the Presidency or place in which the Port is situated. A fee, not exceeding one Rupee per Emigrant, as may be regulated from time to time by the Local Government, shall be demandable in respect of every such license, which fee shall be carried to the credit of the said Government and the granting or withholding any such license shall be entirely discretionary with the Government; and in consideration of such license, the Master of every ship conveying or destined to convey, Emigrants from India, shall execute a Bond, binding himself and his owners in a penal sum of 10,000 Rupees, to conform to the several conditions herein provided, and the said Bond shall be executed in duplicate, that it may be put in suit either at the place of execution or in the Colony to which the Emigrants are to be conveyed, and one copy shall be forwarded to the Government of such Colony, to be dealt with as the case may require. And every ship or vessel in which any such Emigrant shall be conveyed, without a license being obtained as aforesaid, shall be liable to be forfeited, and the Master thereof shall be liable, as for a misdemeanor, to a fine of 1,000 Rupees for every such Emigrant so illegally conveyed.

Fee for license.

Master of ship to give bond.

Penalty if ship be not licensed.

VI. It shall not be lawful for the Master of any vessel licensed as abovementioned to receive on board any Emigrant laborer, as above provided, unless such laborer shall have in his possession and show a certificate of pass, to be given to him by the Emigration Agent of the Port, countersigned by the Protector of Emigrants, stating his name, and the name of his father, and his age, and certifying that, having appeared before such Agent, he has declared his willingness to proceed to work for hire in the Colony to which such vessel is bound, and has been engaged by him as an Emigrant to such Colony on the part of the Government thereof.

Master of vessel not to receive on board any Emigrant without a certificate.

Certificate what to state, &c.

VII. Before any ship or vessel, so licensed to carry Emigrant laborers as above provided, shall be cleared out from any of the aforesaid Ports for either of the said Colonies, it shall be necessary for the Master of such ship or vessel, provided any Emigrant of the description aforesaid shall embark therein, to obtain from the Emigration Agent, so nominated and authorized at such Port as aforesaid, a certificate, under the hand of such Agent, to the effect following, that is to say—

Before Port-clearance, Master of ship to obtain certificate from Emigration Agent stating—

First.—That such Agent has, by personal communication, done what is required on the part of such Agent by the third Article of the Schedule hereunto annexed; provided always, that every such Agent shall make the enquiries specified in such Schedule in an open Court or public office, to which all persons shall have admission.

That the third Article in the Schedule has been complied with

Proviso. Inquiries therein specified to be public.

Second.—That all the directions contained in the fourth, fifth, sixth, and seventh Articles of the said Schedule, for ensuring the health and safety of passengers, have been duly complied with.

That the directions in the Schedule as to health, &c., have been complied with.

Third.—That (in addition to the directions contained in the said Schedule) such Rules have been complied with as the Governor General in Council shall from time to time frame, touching the medical attendance and medical stores, and the proper clothing to be provided, the species of provisions suited to native habits, the number of women that should accompany the Emigrants, or other matters.

That the Government Rules touching medical attendance, clothing, &c., have been complied with

VIII. The probable lengths of the voyages to Saint Lucia and Grenada, from the Ports aforesaid respectively, shall, for the purposes of this Act, be deemed to be—

Probable lengths of voyage

From the Port of Calcutta, twenty weeks.
From the Port of Madras, nineteen weeks.
From the Port of Bombay, nineteen weeks,

and that no ship or vessel carrying Emigrant laborers to Saint Lucia or Grenada, shall sail from Calcutta, Madras or Bombay at any other time than between the 31st day of August and the 1st day of March next thereafter ensuing.

Time of sailing.

IX. Before any ship or vessel shall be cleared out from any of the aforesaid Ports for Saint Lucia or Grenada, it shall be necessary for the Master thereof to deliver to the Emigration Agent, so nominated and authorized at such Port as aforesaid, the list specified in Article 10 of the said Schedule, and to obtain such duplicate thereof as is required by the said Article.

Master to deliver list to Emigration Agent.

X. If the Master of any ship or vessel shall, at any of the Ports aforesaid, take on board such ship or vessel any Emigrant laborer of the description aforesaid, and shall clear such ship or vessel for Saint Lucia or

Penalty for clearing ship without complying with Rules.

Grenada without having fully complied with every particular herein required previously to clearance, he shall be liable, on conviction before any Magistrate or Justice of the Peace, to a penalty not exceeding two hundred Rupees for every Emigrant laborer so taken on board his ship or vessel.

Penalty for taking on board, after clearance, Emigrants not entered in list.

XI. If the Master of any ship or vessel shall, after having cleared such ship or vessel at any such Port as aforesaid for Saint Lucia or Grenada, take on board any such Emigrant laborer as aforesaid, without having entered such Emigrant laborer in such list as aforesaid, or without having obtained such duplicate as aforesaid containing the entry of such Emigrant prior to clearance, he shall be liable, on conviction before any Magistrate or Justice of the Peace, to a penalty not exceeding five hundred Rupees for every Emigrant so taken on board his ship or vessel.

Penalty for fraudulent acts whereby certificate becomes inapplicable to the altered state of the vessel.

XII. If any Master of any ship or vessel cleared for Saint Lucia or Grenada as aforesaid, shall, after having obtained such certificate as aforesaid, fraudulently do, or suffer to be done, any act or thing whereby such certificate shall become inapplicable to the altered state of the ship or vessel, its passengers, or other matters to which such certificate relates, such Master shall be liable, on conviction, to a penalty not exceeding five thousand Rupees, beside incurring a forfeiture of any Bond executed in consideration of any license obtained for the vessel as originally described.

Custom House Officers and Pilots to exercise, for the purposes of this Act, certain powers vested in the former for the prevention of smuggling.

XIII. All the powers vested by law in the Officers of Customs in regard to the searching and detention of ships or vessels, or otherwise for the prevention of smuggling on board thereof, may be exercised by such Officers for the prevention of the illegal embarkation of such Emigrants as aforesaid on board ships or vessels bound for Saint Lucia or Grenada, and of other offences against this Act; and all Pilots in the Service of the East India Company shall be invested with the same powers, and be charged with the same duties as Preventive Officers of Customs in this behalf.

Custom House Officers and Pilots at Calcutta to countersign papers.

XIV. Whenever a vessel shall clear from Calcutta for Saint Lucia or Grenada with Emigrant laborers duly embarked thereon, the Customs Officer on board such vessel shall countersign the pass or certificate brought on board such vessel by every such Emigrant laborer, and shall keep a

register of every such Emigrant laborer as may come on board. And such Customs Officer shall remain on board such vessel until she shall arrive in Saugor Roads, and shall not come away until a muster of the crew and passengers and Emigrant laborers has been made in his presence, and in that of the Pilot in charge of the vessel; and after the Customs Officer has taken muster and quitted the vessel, the Pilot shall continue to exercise the duties indicated in Section XIII. of this Act; and it shall be lawful for him, if he shall deem it necessary, to require the Master or Commander to take a general muster of the crew and passengers and Emigrant laborers on board, and to sign a muster roll so taken. And every such Custom House Officer and Pilot shall make a complete Report of the Emigrant laborers on board of any ship at the time of his quitting the same, and such Report shall contain a declaration that, to the best of the declarant's belief, no additional Emigrant laborers have been received on board since obtaining the certificate, and that nothing else has been done or omitted to be done in the ship or vessel contrary to the provisions of this Act; and every such report or muster, if any, shall be transmitted without delay to the Emigration Agent of the Port. And any Custom House Officer or Pilot who shall wilfully make a false, erroneous, or incomplete report of the Emigrant laborers on board of any ship, or who shall connive at the unauthorized embarkation of any such Emigrant laborers, shall be liable, besides dismissal, to a fine of five hundred Rupees, commutable, if not paid, to imprisonment in the Calcutta Jail for six months, and the penalty shall be adjudged in like manner as similar penalties are adjudged for offences committed in respect to the Customs Revenue.

To muster crew and passengers and Emigrants.

Report of Emigrants on board.

Penalty.

XV. If any person shall forge, or shall use, knowing it to be forged, any document required by this Act, such person shall be liable to be imprisoned for any period not exceeding seven years.

Punishment for forgery of document required by this Act.

XVI. All the several penalties to which the Masters of ships or vessels are liable by this Act, shall be enforced by information laid before any Justice of the Peace at the instance of the Emigration Agent or of any Officer appointed for the purpose by the Government of the Presidency or place, or may be enforced by putting in suit the Bond given by the Master, if such Bond has been given in consideration of the license granted to the ship.

Penalties how to be enforced.

Act when to take effect.

XVII. This Act shall take effect as to the said Colonies respectively from the day when the Governor General of India in Council, or in his absence the President in Council, shall notify in the *Calcutta Gazette* that such Regulations have been provided, and such measures taken, as he may deem necessary for the protection of such Emigrants during their residence in such Colony, and in respect of their return to India.

SCHEDULE.

Appointment of Emigration Agent.

1. The Governors of Saint Lucia and Grenada may, from time to time, nominate such persons as they shall see fit to act as Emigration Agents at Calcutta, Madras, and Bombay.

Remuneration.

2. The remuneration to be given to any such Agent in India shall not depend upon or be regulated by the number of Emigrants sent by him, but shall be in the nature of an annual salary.

Duty.

3. Every such Emigration Agent shall ascertain, by personal communication with every Emigrant previously to his or her embarkation from the port or place for which such Agent shall have been appointed, that such Emigrant has not been induced to emigrate by any fraud, false or unreasonable expectation, and is aware of the distance of the Colony to which he or she is about to emigrate from the place where he or she is about to embark, and such Agent shall explain the real advantages likely to be derived by such Emigrant from a removal to such Colony, at the same time cautioning such Emigrant against unreasonable and unwarrantable expectations; and such Agent shall also ascertain that every such Emigrant is in good health and not incapacitated from labor by old age, bodily infirmity, or disease.

Number of passengers.

4. It shall not be lawful to ship on board of any ship or vessel carrying Emigrants from India to either of the Colonies aforesaid, any number of passengers exceeding the proportion of one person for every two tons of the registered burthen of such ship or vessel; and no such ship or vessel carrying Emigrants, and having more than one deck, shall have less than the height of six feet at the least between decks; and in case such ship or vessel shall have only one deck, a platform shall be laid beneath such deck, and in such manner as to afford a space of the height of six feet at the least, and such

platform shall not be so laid as that the lower beams shall project above the same; and no such ship or vessel shall have more than two tiers of berths; and no such ship or vessel shall carry passengers on any such voyage to any of the Colonies aforesaid, unless there shall be an interval of six inches at least between the deck or platform and the floor of the lower tier, throughout the whole extent thereof; and whatever may be the tonnage of the ship or vessel, no greater number of passengers shall be taken on board of such ship or vessel than shall be after the rate of one such person for every twelve superficial feet of the lower deck or platform, unoccupied by goods or stores, not being the personal luggage of such person.

Children.

5. In the computation of the number of passengers within the meaning of these Regulations, two children under the age of ten years shall be considered as equal to, and shall be reckoned as, one person only.

Provisions.

6. There shall be actually laden on board of every ship or vessel conveying Emigrants into either of the Colonies aforesaid, at the time of departure of such ship or vessel from the port at which such laborers shall be embarked, good and wholesome provisions for the use and consumption of the said passengers, over and above the victualling of the crew, to the amount or in the proportion following: that is to say, a supply of water to the amount of five gallons for every week of the computed voyage for every passenger on board such ship or vessel, such water being carried in tanks or sweet casks; and a supply of rice, bread, biscuit, flour, oatmeal, or bread stuffs to the amount of seven pounds weight to every week of the computed voyage for every such passenger. Provided always, that, when any such ship or vessel shall be destined to call at a port or place in the course of her voyage, for the purpose of filling up her water-casks, a supply of water at the rate before mentioned for every week of an average voyage to such port or place of calling shall be deemed to be a compliance with this Regulation: and provided that the preceding Regulation regarding food shall be deemed to have been complied with in any case when it shall be made to appear that, by the special authority of the Governor General of India in Council, any other articles of food were substituted for the articles above enumerated, as being, in his judgment, equivalent thereto.

Survey of ship.

7. Before any such ship or vessel shall be cleared out on any such voyage, the Emigration Agent appointed for the port or place from which such ship or vessel shall be

cleared out shall survey, or cause to be surveyed by some competent person, the provisions and water hereinbefore required to be on board for the consumption of passengers, and shall ascertain that the same are in good and sweet condition, and also that, over and above the same, there is on board an ample supply of water and stores for the victualling of the crew of the ship or vessel, and shall also ascertain that such ship or vessel is generally reputed sea-worthy, and that the directions hereinbefore contained for ensuring the health and safety of the passengers have been complied with, and shall grant a certificate thereof, under his hand, to the Master of such ship or vessel.

Master to furnish provisions.

8. The Master of every ship or vessel conveying Emigrants to Saint Lucia or Grenada shall be bound to provide for and furnish to every such Emigrant, and his wife and children, a sufficient quantity of good and wholesome provisions for his, her, and their daily maintenance during such voyage, and during the space of forty-eight hours next after the arrival of such ship or vessel at the place of destination.

Copies of Rules.

9. Two copies of these regulations, and two copies of a translation thereof in the Bengalee language, or such other language as the Government may direct, authenticated by the signature of the Emigration Agent at the port or place at which such Emigrants shall embark, shall be delivered to the Master by such Agent, at the time of clearance, and shall be kept on board of every ship or vessel carrying such Emigrants as aforesaid, during the whole voyage, and one of such copies or translations shall, upon request made at reasonable times to the Master of the ship or vessel, be produced to any passenger for his perusal.

List of Emigrants.

10. The Master of every ship or vessel carrying Emigrants from India to either of the Colonies aforesaid shall, before clearing out such ship or vessel, deliver to such Emigration Agent, at the port or place from which such vessel is cleared out, a list in writing, together with a duplicate of the same, specifying, as accurately as may be, the names, ages, and occupations of all and every the Emigrants on board such ship or vessel, and such Agent shall thereupon deliver to the said Master the counterpart of such list signed by such Agent; and the said Master shall on the arrival of such ship or vessel at the place or destination, and previous to the disembarkation of any such Emigrants, give notice of the arrival of such ship or vessel, and deliver the said counterpart of such list to the Protector of Emigrants appointed, or to be appointed, at the Colony at which the said ship or vessel may have arrived.

Rules not applicable to ships of war.

11. Provided always that nothing in these Regulations contained shall apply to any ship or vessel in the service of the Lords Commissioners of the Admiralty, or to any of Her Majesty's Ships of war.

ACT No. XXXIII OF 1855.

Passed on the 7th of December, 1855.

An Act to prohibit the exportation of Saltpetre, except in British vessels bound to the Ports of London or Liverpool.

[*This Act became void on the publication of a Notification by the Governor General withdrawing the restrictions imposed by it in consequence of the establishment of peace with Russia.*]

ACT No. XXXIV OF 1855

Passed on the 14th of December, 1855.

An Act to explain and amend Act No. XXXIII of 1852.

Preamble.

WHEREAS doubts have arisen whether a Court to which application is made to enforce or execute a judgment under the provisions of Act No. XXXIII. of 1852 has power to inquire into the validity of the judgment; and it is expedient to remove such doubts, and to prevent any such Court from inquiring into the validity of a judgment in respect of which it has no appellate jurisdiction, and to provide for a stay of execution when such Court thinks it reasonable that the validity of the judgment should be inquired into: It is enacted as follows:—

Court to which application to enforce a judgment of another Court is made, not to inquire into the validity of the judgment.

Proviso.

I. The Court to which application is made to enforce or execute a judgment under the provisions of Act No. XXXIII of 1852, shall not have power to inquire into the validity of such judgment, unless it appear, upon the face of such judgment, that the Court by which the judgment was given had no jurisdiction to pronounce the same.

Such Court may, in certain cases, stay execution of judgment.

II. The Court to which the application is made may, upon reasonable cause being shown, stay the execution of the judgment for a reasonable time, to enable the judgment-debtor to apply to the Court by which the judgment was given, or to any Court having appellate jurisdiction

in respect of the judgment or execution thereof, for an order to stay the execution, or for any other order relating to the judgment or the execution thereof, which such Court of first instance or Court of Appeal might have made, if execution had been issued by the Court of first instance, or if application for execution had been made to such Court; and in case the property or person of the judgment-debtor shall have been seized under an execution, the Court which issued the execution may order restitution of the property, or the discharge of the person of the debtor, in the mean time.

Court may, in such cases, take security, &c. from judgment-debtor.

III. Before making an order to stay execution, or for the restitution of property, or the discharge of the judgment-debtor under this Act, the Court may require such security from, or impose such conditions upon, the judgment-debtor, as it may deem reasonable.

Order of Court pronouncing judgment to be binding upon Court enforcing the same.

IV. Any order of the Court in which the judgment was given, or of such Court of Appeal as aforesaid, shall be binding upon the Court to which the application for execution was made, and shall be a sufficient indemnity for all persons acting in execution of process issued by such last-mentioned Court.

Defendant discharged under this Act liable to be re-taken in execution of the judgment.

V. No discharge of a defendant under the provisions of this Act shall prevent him from being re-taken in execution of the judgment.

Act to be taken as part of Act XXXIII. of 1852.

VI. This Act shall be read with, and taken as part of Act No. XXXIII. of 1852.

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